

RECORDING REQUESTED BY AND
AFTER RECORDATION, MAIL TO:

Tacoma Community Redevelopment Authority
747 Market Street, Room 900
Tacoma, WA 98402

Grantor: City of Tacoma
Grantee: Tacoma Community Redevelopment Authority
Legal Description (abbreviated): Lots 8 and 9, Blk 1222, Map of New Tacoma
Add. legal is on Exhibit "A" to this Agreement
Assessor's Property Tax Parcel #: 201222-004-0

REGULATORY AGREEMENT

THIS REGULATORY AGREEMENT ("Regulatory Agreement") is executed as of the ____ day of _____, 2016 by and between CITY OF TACOMA, a municipal corporation of the State of Washington ("CITY"), and TACOMA COMMUNITY REDEVELOPMENT AUTHORITY, a Washington Public Development Authority ("Owner"), with reference to the following:

A. THE CITY shall be identified as a beneficiary of the Regulatory Agreement and shall have the right to directly enforce the restrictions therein in the event Owner fails to do so.

B. CITY and Owner are parties to the Redevelopment and Permanent Financing Loan Agreement ("Loan Agreement") dated as of the ____ day of _____, 2016, on the terms and conditions of which Owner shall borrow funds from CITY, which CITY obtained from Urban Development Action Program Income ("UDAG"), the original principal amount of up to THREE MILLION AND NO/100 DOLLARS (\$3,000,000.00) in UDAG funds ("Loan") for the purpose of providing financing for the housing development described in the Loan Agreement (the "Project"). The Project will be developed on a site legally described on Exhibit "A" to this Regulatory Agreement (the "Eligible Property").

C. Unless otherwise expressly provided, all defined terms used in this Regulatory Agreement shall have the defined meanings provided for in the Loan Agreement.

NOW THEREFORE, in consideration of the representations, covenants, and obligations of Owner contained in this Regulatory Agreement, Owner, on behalf of itself and its successors and assigns, hereby covenants and agrees as follows:

- (1) Use of the Eligible Property.

The Eligible Property will consist of a total of twenty six (26) residential units comprised of thirteen (13) studio units, two (2) one-bedroom units, nine (9) one-bedroom loft units and two (2) work-live units. A total of fourteen (14) units shall initially be leased to Low Income Households, as further defined below. This will include nine (9) units considered as “Assisted Units” and leased to Very Low-Income Households as further defined below.

a. Limitations on Tenants. Notwithstanding anything to the contrary in this Regulatory Agreement, Owner hereby covenants on behalf of itself, and its successors and assigns, which covenant shall run with the land and bind every successor and assign in interest of Owner, that, throughout the thirty (30) year term of this Regulatory Agreement (the “Term”), Owner and such successors and assigns shall use the Eligible Property solely for the purpose of operating the Project as a residential development with the defined number of dwelling units and, with respect to the units designated to be assisted as consideration for the Loan Agreement, nine (9) Assisted Units shall be in accordance with the tenant income levels specified in this Regulatory Agreement.

All Assisted Units shall be rented only at an affordable housing cost to Very Low-Income Households hereinafter defined (households meeting the applicable criteria are occasionally referred to as “Eligible Households” and persons within any group occasionally referred to as “Eligible Tenant” or “Eligible Tenants”) and as outlined in the following table:

Household Income Level (% of Area Median Income)	Studio Units	1-BR units	1-BR loft units	Work-Live Units	TOTAL UNITS	Total Assisted Units
Fifty Percent (50% AMI)	6	0	3	0	9	9
Initial Occupancy (80% AMI)*	2	1	2	0	5	0
Unrestricted Units	5	1	4	2	12	0
TOTAL	13	2	9	2	26	9

* Following initial occupancy these units are unrestricted

“Low Income Households” shall mean and refer to persons and households whose income does not exceed 80% percent of area median income, adjusted for household size, as set forth in 24 CFR Part 92.2 of the HOME Investment Partnerships Program Final Rule. In the case where the provisions of 24 CFR Part 92.2 are discontinued, then the words “Low-Income Households” shall mean and refer to persons and households whose income does not exceed 80% percent of area median income, adjusted for household size, as set forth annually by HUD’s Office of Affordable Housing.

“Very Low-Income Households” shall mean and refer to persons and households whose income does not exceed 50% percent of area median income, adjusted for household size, as set forth in 24 CFR Part 92.2 of the HOME Investment Partnerships Program Final Rule. In the case where the provisions of 24 CFR Part 92.2 are discontinued, then the

words “Very Low-Income Households” shall mean and refer to persons and households whose income does not exceed 50% percent of area median income, adjusted for household size, as set forth annually by HUD’s Office of Affordable Housing.

“Initial Occupancy” shall mean and refer to the first persons and households who occupy a unit following a certificate of occupancy being issued.

“Affordable Housing Cost” shall mean, as to each Eligible Tenant, a rental rate which results in monthly payments which, including a utility allowance, do not exceed the maximum rent limits commonly referred to as “High Rents” for the units set-aside for tenants at or below 80% AMI. The Units set-aside for tenants at or below 50% AMI, shall have a rental rate, including a utility allowance, with maximum rent limits that do not exceed the limits commonly referred to as “Low Rents”. Both limits are established by the U.S. Dept. of Housing & Urban Development (HUD) at 24 CFR 92.252(a)(2) and are adjusted annually by HUD.

“Area Median Income” shall mean the median income for the Tacoma/Pierce County Metropolitan Statistical Area, adjusted for family size as periodically adjusted by the U.S. Department of Housing and Urban Development (“HUD”).

Owner shall specifically provide in each Assisted Unit lease and shall strictly enforce the requirement that each Assisted Unit be occupied at all times by the eligible household who has leased that Assisted Unit, and that any other occupant of the unit be another qualified member of the lessee’s household. CITY shall be identified as a beneficiary of that covenant and shall have the right to directly enforce that restriction in the event Owner fails to do so. Prior to execution of any Assisted Unit lease with respect to the Project, Owner shall submit to CITY and obtain its written approval of a standard form occupancy lease and Owner shall thereafter use the approved form for all leases of Assisted Units in the Project, with only such further modifications thereto as are first submitted to and approved in writing by CITY.

b. Tenant Selection. Owner shall also be required to have each prospective tenant complete a rental application prior to occupancy and to obtain evidence from each such tenant as may be reasonably required by CITY to certify such tenant's qualification for occupancy of the Project.

c. Reports and Records Concerning Tenancies. Owner shall maintain such records and satisfy such reporting requirements as may be reasonably imposed by CITY to monitor compliance with the tenanting requirements described in Paragraph (1)(a) and (b) above, including without limitation the requirement that Owner deliver reports to CITY commencing at the close of the initial occupancy of the Project, and continuing annually thereafter, setting forth the name of each tenant, the unit occupied and the income of the tenant and the amount of rent payable by each tenant. Owner's obligation to provide such reports shall remain in force and effect for the same duration as the use covenants set forth in this Paragraph (1).

(2) Management of Project. Subject to the terms and conditions contained herein below, Owner shall at all times during the operation of the Project pursuant to this Regulatory Agreement retain an entity to perform the management and/or supervisory functions (“Manager”) with respect to the operation of the Project, including day-to-day administration, maintenance and repair. Owner shall, before execution or any subsequent amendment or replacement thereof, submit and obtain CITY’s written approval (which shall not be unreasonably withheld, conditioned or delayed) of a management contract (“Management Contract”) entered into between Owner and an entity (“Management Entity”) reasonably acceptable to CITY. Subject to any regulatory or licensing requirements of any other applicable governmental agency, the Management Contract may be for a term of up to fifteen (15) years and may be renewed for successive terms in accordance with its terms, but may not be amended or modified without the written consent of CITY. The Management Contract shall also provide that the Management Entity shall be subject to termination for failure to meet project maintenance and operational standards set forth herein or in other agreements between Owner and CITY. Owner shall promptly terminate any Management Entity which commits or allows such failure, unless the failure is cured within a reasonable period, but, in no event exceeding 60 calendar days from Management Entity’s receipt of notice of the failure from Owner or CITY. Owner's obligation to retain a Management Entity shall remain in force and effect for the same duration as the use covenants set forth in Paragraph (1) of this Regulatory Agreement.

(3) Operations and Maintenance. Owner hereby covenants on behalf of itself, and its successors and assigns, which covenant shall run with the land and bind every successor and assign in interest of Owner, that Owner and such successors and assigns shall use the Eligible Property solely for the purpose of rehabilitating and operating the Project and ancillary improvements thereon, in accordance with and of the quality prescribed by this Regulatory Agreement and the Deed of Trust (as defined in the Loan Agreement).

Owner covenants and agrees for itself, its successors and assigns, which covenants shall run with the land and bind every successor or assign in interest of Owner, that during development of the Eligible Property pursuant to this Regulatory Agreement and thereafter, the Eligible Property, nor any portion thereof, shall be improved, used or occupied in violation of any Applicable Governmental Restrictions (as defined below) or the restrictions contained in this Regulatory Agreement. Furthermore, Owner and its successors and assigns shall not maintain, commit, or permit the maintenance or commission on the Eligible Property, or any portion thereof, of any nuisance, public or private, as now or hereafter defined by any statutory or decisional law applicable to the Eligible Property, or any portion thereof.

As used herein, "Applicable Governmental Restrictions" shall mean and include any and all laws, statutes, ordinances, codes, rules, regulations, directives, writs, injunctions, orders, decrees, rulings, conditions of approval, or authorizations, now in force or which may hereafter be in force, of any governmental entity, agency or political subdivision as they pertain to the performance of this Agreement or development or operation of the Project, including specifically but without limitation all code and other requirements of the jurisdiction in which the Project is located; the Washington State Environmental Protection Act; the laws specified in the CDBG Agreement; fair housing laws; and applicable federal, state and local laws. Owner shall

indemnify, defend and hold CITY harmless for any suit, cost, attorneys' fees, claim, administrative proceeding, damage, award, fine, penalty or liability arising out of Owner's failure to comply with any Applicable Governmental Restrictions, including, without limitation, the nonpayment of any prevailing wages required to be paid in connection with the Project.

Owner shall, at its expense, (i) maintain all improvements and landscaping on the Eligible Property in first-class order, condition, and repair (and, as to landscaping, in a healthy and thriving condition) in accordance with the plans for the Project approved by CITY in accordance with the Development Agreement and all Applicable Governmental Restrictions, and (ii) manage the Project and Project finances reasonably prudently and in compliance with Applicable Governmental Restrictions so as to maintain a safe and attractive living environment for Project residents.

(4) Performance of Maintenance.

a. Owner shall maintain in accordance with CITY Standards, as hereinafter defined, the private improvements, public improvements and landscaping to the curblines on and abutting the Eligible Property. To the extent applicable and existing, said improvements shall include, but not be limited to, buildings, sidewalks and other paved areas, pedestrian lighting, landscaping, irrigation of landscaping, architectural elements identifying the Eligible Property and any and all other improvements on the Eligible Property and in the public right-of-way to the nearest curblines abutting the Eligible Property.

b. To accomplish the maintenance, Owner shall either staff or contract with and hire licensed and qualified personnel to perform the maintenance work, including the provision of labor, equipment, materials, support facilities, and any and all other items necessary to comply with the requirements of this Regulatory Agreement.

CITY Standards: The following standards ("CITY Standards") shall be complied with by Owner and its maintenance staff, contractors or subcontractors

(i) Ordinary Maintenance Standards - Owner shall maintain the Eligible Property in good repair, order and condition at all times in order to assure that the Eligible Property is kept in a decent, safe, and sanitary condition, and that the buildings, grounds, and equipment are to be maintained in a manner that will preserve their condition.

(ii) Annual Suitable for Occupancy - Owner shall annually certify that the Assisted Units are suitable for occupancy. The completed certification will be documented and reported to CITY on an annual basis on a form provided by the CITY.

(iii) CITY Property Inspections. On a regular basis, but no less than every three years, CITY will inspect up to 100% of the residential units and all common areas of the Project. CITY may charge a \$100.00 re-inspection fee if the Project substantially fails its initial inspection in any given tri-year cycle.

(iv) Extraordinary Maintenance. Owner shall perform any extraordinary repairs or replacements necessary in order to maintain the Eligible Property, including extraordinary replacement of equipment, betterment, and additions. Extraordinary repairs or replacement consists of major repairs and rehabilitation involving substantial expenditures which usually are needed only at relatively long intervals of time, or are caused by such occurrences as earthquake, fire, obsolescence and, in some instances, neglect. Such items as replacement of roofs, replacement of corroded gas and heating lines, and rehabilitation of landscaping (ground-cover) would be considered in this category.

(vv) CITY may enter and inspect the premises at any time after notifying Owner 72 hours prior to the planned inspection, and said notice shall be delivered to Owner at the address indicated in paragraph 17(e) below.

(5) Failure to Maintain Improvements. In the event Owner does not maintain the Eligible Property to the curblin in the manner set forth herein and in accordance with CITY Standards, CITY shall have the right to maintain such private and/or public improvements, or to contract for the correction of such deficiencies, after (i) written notice to Owner stating that the condition of said improvements does not meet with CITY Standards and specifying the deficiencies and the actions required to be taken by Owner to cure the deficiencies (“Deficiency Notice”); and (ii) the lapse of the applicable “Cure Period,” as hereinafter defined. Upon receipt of the Deficiency Notice, Owner shall have thirty (30) calendar days within which to correct, remedy or cure the deficiency, unless such deficiency is not capable of being cured within such 30 day period, then such amount of time as is needed to cure such deficiency provided owner is diligently pursuing cure; provided however, if the Deficiency Notice states the problem is urgent relating to public health and safety, then Owner shall have forty-eight (48) hours to rectify the problem (collectively the “Cure Periods”).

In the event Owner fails to correct, remedy, or cure such maintenance deficiency after the Deficiency Notice and after the applicable Cure Period has lapsed, then CITY shall have the right to maintain such improvements. Owner agrees to pay CITY, upon demand, charges and costs incurred by CITY in connection with such maintenance. Until so paid, CITY shall have a lien on the Eligible Property for the amount of such maintenance charges and costs, which lien shall be perfected by the recordation of a “Notice of Claim of Lien” against the Eligible Property. Upon recordation of a Notice of a Claim of Lien against the Eligible Property, such lien shall constitute a lien on the fee estate in and to the Eligible Property prior and superior to all other monetary liens except: (i) all taxes, bonds, assessments, and other levies which by law would be superior thereto; (ii) the lien or charges of any mortgage, deed of trust, or other security interest then of record made in good faith and for value, it being understood that the priority for any such lien for costs incurred to comply with this Regulatory Agreement shall date from the date of the recordation of the Notice of Claim of Lien. Any such lien shall be subject and subordinate to any lease or sublease of the interest of Owner in the Eligible Property or any portion thereof and to any easement affecting the Eligible Property or any portion thereof entered into at any time (either before or after) the date of recordation of such a Notice. Any lien in favor of CITY created or claimed hereunder is expressly made subject and subordinate to any

mortgage or deed of trust made in good faith and for value, recorded as of the date of the recordation of the Notice of Claim of Lien describing such lien as aforesaid, and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of any such mortgage or deed of trust, unless the mortgage or beneficiary thereunder expressly subordinates his interest, or record, to such lien. No lien in favor of CITY created or claimed hereunder shall in any way defeat, invalidate, or impair the obligation or priority of any lease, sublease or easement unless such instrument is expressly subordinated to such lien. Upon foreclosure of any mortgage or deed of trust made in good faith and for value and recorded prior to the recordation of any unsatisfied Notice of Claim of Lien, the foreclosure-purchaser shall take title to the Eligible Property free of any lien imposed herein by CITY that has accrued up to the time of the foreclosure sale, and upon taking title to the Eligible Property, such foreclosure-purchaser shall only be obligated to pay costs associated with this Regulatory Agreement accruing after the foreclosure-purchaser acquires title to the Eligible Property. If the Eligible Property is ever legally divided with the written approval of CITY and fee title to various portions of the Eligible Property is held under separate ownerships, then the burdens of the maintenance obligations set forth herein and in the Loan Agreement and the charges levied by CITY to reimburse CITY for the cost of undertaking such maintenance obligations of Owner and its successors and the lien for such charges shall be apportioned among the fee owners of the various portions of the Eligible Property under different ownerships proportionate to the square footage of the land contained in the respective portions of the Eligible Property owned by them. Upon apportionment, no separate owner of a portion of the Eligible Property shall have any liability for the apportioned liabilities of any other separate owner of another portion of the Eligible Property, and the lien shall be similarly apportioned and shall only constitute a lien against the portion of the Eligible Property owned in fee by the owner who is liable for the apportioned lien and against no other portion of the Eligible Property. Owner acknowledges and agrees the Eligible Property may also pursue any and all other remedies available in law or equity. Owner shall be liable for any and all reasonable attorneys' fees, and other legal costs or fees incurred in collecting said maintenance costs.

(6) Resident Qualifying Standards, Policies and Procedures

- a. Income Qualification. At the time of Initial Occupancy fourteen (14) units are to be reserved for Low Income Households as defined in this Regulatory Agreement. At least nine (9) of these units are to be reserved for Very Low-Income Households as defined in this Regulatory Agreement and per its Term.
- b. Student Restriction. None of the Assisted Units may be occupied by a tenant whose principal occupation is student.
- c. Household Size. Occupancy shall not exceed HUD occupancy standards.
- d. Legal Resident. All tenants must be legal United States Residents or legal Resident Aliens.
- e. Required Applicant Documentation.

- (i) Applicant will be required to provide the following documents to the Property Management Company for further review:
- Copies of Social Security Cards for each family member
 - Completed rental application (employment, banking information and personal references will be checked)

- (ii) In determining whether an Applicant is income eligible, the Owner or Property Management Company shall adhere to the procedures specified in 24 CFR Part 92.203, which include but are not limited to:

Income must initially be determined by examining the source documents evidencing annual income, which may include:

- Wage statement (such as a W-2)
- Interest statement
- Unemployment compensation statement

When determining whether a family is income eligible, the following definition of “annual income” must be used:

“Annual Income” as defined at 24 CFR 5.609. In addition, Owner or Property Management Company shall adhere to the procedures specified in 24 CFR Part 92.203 when determining and/or certifying tenants’ annual income in the years subsequent to the initial application.

- f. Non Discrimination Policy. Owner warrants that there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, religion, sex, marital status, ancestry, national origin, age, familial status, disability, sexual orientation, gender identify or veteran/military status in the leasing, transferring, use, occupancy, tenure or enjoyment of Owner’s properties, nor shall the lessee himself, or any person claiming under or through him, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sub lessees, subtenants or vendees in the properties herein being leased.
- g. Lease Agreements. Unless mutually agreed to by both tenant and owner, all leases for Assisted Units will be for a 1-year term.
- h. Resident Re-certifications. Annually, renters must recertify their qualifications to continue to reside within the apartments. Renters must complete: questionnaire, provide income and household size

documentation, updated employment information, and any other documents the Property Management Company deems necessary. Renters must qualify based upon current income qualifying standards with documentation which shall be provided to the Property Management Company annually.

i. Evictions/Move Outs. A notice to move may be issued by the Property Management Company to the Tenant at any time for the following violations:

- Failure to pay rent
- Failure to follow Owner's rules and regulations
- Repeated complaints

(7) Owner's Obligation to Refrain From Discrimination. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, sex, marital status, national origin, ancestry, age, familial status, disability, sexual orientation, gender identity or veteran/military status in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Eligible Property, nor shall Owner itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Eligible Property or any portion thereof. The nondiscrimination and nonsegregation covenants set forth herein shall remain in effect in perpetuity.

Owner shall refrain from restricting the rental, sale or lease of the Eligible Property or any portion thereof on the basis of race, color, creed, religion, sex, marital status, national origin, or ancestry of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

a. In deeds: "The grantee herein covenants by and for himself or herself, and his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, , religion, sex, marital status, national origin, ancestry, age, familial status, disability, sexual orientation, gender identity or veteran/military status in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

b. In leases: "The lessee herein covenants by and for himself or herself, and his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following

conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, religion, sex, marital status, national origin, ancestry, age, familial status, disability, sexual orientation, gender identity or veteran/military status in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the land herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the land herein leased.”

c. In contracts: “There shall be no discrimination against or segregation of any person or group of persons, on account of race, color, religion, sex, marital status, national origin, ancestry, age, familial status, disability, sexual orientation, gender identity or veteran/military status in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the parties to this contract or any person claiming under or through them, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the premises.”

Nothing in this Paragraph shall be construed or understood to limit, restrict or in any way waive the income requirements described in this Regulatory Agreement.

(8) Covenants Run With the Land; Duration of Covenants. The covenants and agreements established in this Regulatory Agreement shall be covenants running with the land and shall, without regard to technical classification and designation, be binding on Owner and any successor-in-interest to Owner's interest in the Eligible Property, or any part thereof, for the benefit of and in favor of the agency and its successors and assigns. The covenants of this Regulatory Agreement shall remain in effect through the Term, notwithstanding the repayment of the Loan by Owner prior to the Maturity Date. The covenants contained in Paragraph 7 of this Regulatory Agreement shall remain in effect in perpetuity.

The Improvements to the curblin(e) and the maintenance thereof touch and concern the Eligible Property and inure to the benefit of any and all present or successive owners of the Eligible Property. Therefore, whenever the word "owner" is used herein, it shall include the owner as of date of execution of this Regulatory Agreement, and any and all successor owners or assigns of the Eligible Property, and the provisions hereof are expressly binding upon all such successive owners and assigns and the parties agree all such provisions shall run with the land. CITY shall cause a fully executed copy of this Regulatory Agreement to be recorded in the Office of the Pierce County Recorder. Notwithstanding the foregoing, in the event Owner or its successors or assigns shall convey its fee interest in all or any portion of the Eligible Property, the conveying owner shall be free from and after the date of recording such conveyance of all liabilities, respecting the performance of the restrictions, covenants or conditions contained in this Regulatory Agreement thereafter to be performed with respect to the Eligible Property, or any part thereof, it being intended that the restrictions, covenants and conditions shall be binding upon the record owners of the Eligible Property only during such time as that person is the owner of the Eligible Property, provided that the conveying owner shall remain liable for any actions prior to the date of the conveyance.

(9) Enforcement. In amplification and not in restriction of the provisions set forth hereinabove, it is intended and agreed that CITY shall be deemed the beneficiary of the terms and provisions of this Regulatory Agreement and of the restrictions and covenants running with the land for and in its own right and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit the covenants running with the land have been provided. Each covenant of Owner, shall, without regard to technical classification and designation, inure to the benefit of the successors, transferees and assigns of CITY for the entire period during which such covenants shall be in force and effect, and shall be binding upon the successors, transferees and assigns of Owner, whether by merger, consolidation, sale, transfer, liquidation or otherwise. Each covenant in favor of CITY is for the benefit of the real property owned by CITY in the area surrounding the Eligible Property. The covenants herein running with the land shall also be equitable servitudes upon the Eligible Property and each part thereof and shall bind each and every person having any interest in the Eligible Property or part thereof, whether such interest is fee, easement, leasehold, beneficial or otherwise, and each successor or assign of such person having any such interest in the Eligible Property or part thereof. CITY shall have the right if any of the covenants set forth in this Regulatory Agreement which are provided for its benefit are breached, to exercise all rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breach to which it may be entitled. In the event that suit is brought for the enforcement of this Regulatory Agreement or as the result of any alleged breach hereof, the prevailing party or parties in such suit shall be entitled to recover their reasonable attorneys' fees from the losing party or parties, and any judgment or decree rendered in such proceedings shall include an award thereof. Except for CITY, the covenants and restrictions contained in this Regulatory Agreement shall not benefit or be enforceable by any owner of any other real property or any person or entity having any interest in any such other real property.

(10) Compliance with Law. Owner shall comply with all Applicable Governmental Restrictions relating to the uses of or condition of the Eligible Property private improvements and public improvements to the curblin(e)s. Local laws for the purposes of this paragraph shall include only those ordinances which are nondiscriminatory in nature and applicable to the public welfare, health, safety and aesthetics. If any new local laws relating to the uses of or condition of the improvements create a condition or situation that constitutes a lawful nonconforming use as defined by local ordinance with respect to the Eligible Property or any portion thereof, then so long as the lawful nonconforming use status remains in effect (i.e., until such lawful status is properly terminated by amortization as provided for in the new local law or otherwise), Owner shall be entitled to enjoy the benefits of such lawful nonconforming use pursuant to the lawful nonconforming uses ordinance.

(11) Indemnification and Insurance.

a. Indemnification. Owner agrees to indemnify, defend and save harmless CITY and their elected and appointed officials, officers, representatives, employees, and agents (hereinafter collectively referred to as "Agents"), from and against any and all liability, demands, damages, claims, causes of action, fees (including reasonable attorney's fees and costs and expert witness fees), and expenses, including, but not limited to, claims for bodily injury, property damage, and death (hereinafter collectively referred to as "Liabilities"), that arise out of, pertain to, or relate to this Regulatory Agreement, the services and/or materials provided pursuant to this Regulatory Agreement, the Eligible Property, or Project. Owner shall not be required to indemnify, defend, and save harmless CITY and their Agents from any Liabilities that arise from the sole negligence or willful misconduct of CITY or CITY's agents, servants, or independent contractors who are directly responsible to CITY. Such indemnification language shall also be incorporated in Owner's contracts with any general contractors and subcontractors in favor of CITY.

These indemnification provisions shall remain in full force and effect and survive the cancellation, termination and/or expiration of this Regulatory Agreement. Owner agrees to require any entities with which it contracts to agree to and abide by the above mentioned indemnification requirements in favor of CITY as applicable to each of them.

b. Insurance. Without limiting Owner's indemnifications of CITY in this Regulatory Agreement, Owner shall procure and maintain at its own expense the insurance described in this section for the duration of this Regulatory Agreement, unless otherwise set forth herein. Such insurance shall be secured from carriers admitted in Washington, or authorized to do business in Washington. Such carriers shall be in good standing with the Washington Secretary of State's Office and the Washington Department of Insurance. Such carriers must have a minimum rating of or equivalent to A(v) in Best's Insurance Guide. Owner shall, concurrent with the execution of this Regulatory Agreement, deliver to CITY certificates of insurance with original endorsements evidencing the general liability, automobile insurance, worker's compensation and property insurance coverage required by this Regulatory Agreement at such time that such exposures are at risk, but in no event later than the Close of Escrow. The certificate and endorsements shall be signed by a person authorized by the insurers to bind coverage on its behalf. CITY reserves the right to require complete certified copies of all

policies at any time. Said insurance shall be in a form acceptable to CITY and may provide for such deductibles as may be acceptable to CITY. In the event such insurance does provide for deductibles or self-insurance, Owner agrees that it and/or the entities with which it contracts, will defend, indemnify and hold harmless CITY, their elected and appointed officers, officials, representatives, employees, and agents in the same manner as they would have been defended, indemnified and held harmless if full coverage under any applicable policy had been in effect. Each such certificate shall stipulate that CITY is to be given at least thirty (30) days' written notice in advance of any cancellation or any reduction in limit(s) for any policy of insurance required herein. Owner shall give CITY immediate notice of any insurance claim or loss which may be covered by insurance. Owner represents and warrants that the insurance coverage required herein will also be provided by Owner's general contractors as detailed below.

The aforementioned insurance policies shall be primary insurance with respect to CITY. The aforementioned insurance policies shall contain a waiver of subrogation for the benefit of CITY. Failure on the part of Owner and any general contractors hired by Owner to perform work on the Eligible Property, to procure or maintain the insurance coverage required herein shall constitute a material breach of this Regulatory Agreement pursuant to which CITY may immediately terminate this Regulatory Agreement and exercise all other rights and remedies set forth herein, at its sole and absolute discretion, and without waiving such default or limiting the rights or remedies of CITY, procure or renew such insurance and pay any and all premiums in connection therewith and all monies so paid by CITY shall be immediately repaid by the Owner to CITY upon demand including interest thereon at the Default Rate. In the event of such a breach, CITY shall have the right, at its sole election, to participate in and control any insurance claim adjustment or dispute with the insurance carrier. Owner's failure to assert or delay in asserting any claim shall not diminish or impair CITY's rights against the Owner or the insurance carrier.

The following insurance policies shall be maintained by Owner and any General Contractor with which Owner contracts for the duration of this Regulatory Agreement unless otherwise set forth herein:

(i) General Liability: For projects in which the direct construction costs are projected to be less than \$15,000,000, Commercial General Liability insurance, including coverage for bodily injury, property damage and contractual liability, with a combined single limit not less than One Million Dollars (\$1,000,000) for each occurrence (Two Million Dollars (\$2,000,000) General Aggregate), including, but not limited to, products and completed operations coverage. CITY and their elected and appointed officers, officials, representatives, employees, and agents shall be named as additional insureds on such policy. Owner shall require its general contractor to carry Commercial General Liability insurance of not less than One Million Dollars (\$1,000,000) for each occurrence (Two Million Dollars (\$2,000,000) General Aggregate), including, but not limited to, products and completed operations protection. Owner shall further require its general contractor to provide additional insured status for Owner and CITY and their elected and appointed officers, officials, representatives, employees, and agents, on such policy. If required by CITY from time to time, Owner shall increase the limits of Owner's liability insurance to reasonable amounts necessary for owners of improvements similar

to the Eligible Property. The policy shall contain a waiver of subrogation for the benefit of CITY.

(ii) Property Insurance: “Special Form” property insurance coverage, which shall include, without limitation, builders risk insurance and insurance against the perils of fire and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, flood, false work, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements. The amount of the property coverage shall at all times exceed the full replacement value of materials supplied or installed by others and all existing structures, improvements and fixtures on the Property. The insurer shall waive any coinsurance via an “agreement” endorsement. Said insurance shall be maintained for the duration of this Regulatory Agreement. CITY and their elected and appointed officers, officials, representatives, employees, and agents shall be named as additional insureds on such policy.

(iii) Workers’ Compensation: Owner's employees, if any, shall be covered by Workers' Compensation insurance in an amount and in such form as to meet all applicable requirements of the labor laws of the State of Washington and Employers Liability limits up to One Million Dollars (\$1,000,000) per accident. Owner shall require that the identical worker’s compensation insurance requirements be incorporated into Owner’s contract with any general contractors with which it contracts in relation to the Project. Said entities shall maintain the insurance for the duration of this Regulatory Agreement or the duration of the construction that is the subject of their contracts with Owner, whichever is greater.

(iv) Automobile Liability: Combined single limit automobile liability insurance up to One Million Dollars (\$1,000,000) per accident for bodily injury and property damage, covering owned (if any), non-owned and hired vehicles. Owner shall require that the identical automobile liability insurance requirements be incorporated into Owner’s contract with any general contractors with which it contracts in relation to the Project. Said entities shall maintain the insurance for the duration of this Regulatory Agreement or the duration of the construction that is the subject of their contracts with Owner, whichever is greater. CITY and their elected and appointed officers, officials, representatives, employees, and agents shall be named as additional insureds on such policies.

(12) Waiver. Failure or delay by either party to perform any term or provision of this Regulatory Agreement constitutes a default under this Regulatory Agreement. The aggrieved party shall give written notice of the default to the party in default in accordance with Paragraph (16)e hereof. The defaulting party shall no longer be in default if the defaulting party cures such default within thirty (30) calendar days after receiving the Default Notice; provided, however, that if such default cannot be reasonably cured within such thirty (30) day period, the defaulting party shall be given such longer period as reasonably necessary (which in the case of a default by Owner shall be as reasonably determined by CITY) and the defaulting party shall no longer be in default if it commences to cure such default within such thirty (30) day period and completes such cure with reasonable and due diligence. CITY agrees that any cure of a default made or tendered by a limited partner of the owner (or an affiliate thereof) shall be deemed to be a cure

by the owner and shall be accepted or rejected on the same basis as if such cure were made or tendered by the owner.

The waiver by one party of the performance of any covenant, condition, or promise shall not invalidate this Regulatory Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise hereunder. The exercise of any remedy shall not preclude the exercise of other remedies CITY or Owner may have at law or at equity.

(13) Modification. This Regulatory Agreement may be modified only by subsequent mutual written agreement executed by Owner and CITY.

(14) Intentionally Omitted.

(15) Miscellaneous Provisions.

a. Interpretation. The provisions of this document shall be liberally construed to effectuate its purpose. Time is of the essence of this Regulatory Agreement.

b. Severability. Invalidation of any of the covenants, conditions, restrictions, or other provisions contained in this Regulatory Agreement by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, which shall remain in full force and effect.

c. Headings. The caption headings of the various sections and paragraphs of this Regulatory Agreement are for convenience and identification only, and shall not be deemed to limit or define the contents of their respective sections or paragraphs.

d. Effective Date. This Regulatory Agreement shall take effect upon its recording in the Pierce County Auditor.

e. Notices. Formal notices, demands, and communications between CITY and Owner shall be given either by personal service, by overnight courier, or by mailing in the United States mail, certified mail, postage prepaid, return receipt requested, addressed to the principal offices of CITY or Owner, as follows:

If to CITY: Community and Economic Development Department
 Attn: Director, Community and Economic Development
 747 Market Street, Room 900
 Tacoma, Washington 98402
 Facsimile: (253) 591-5180

If to Owner: Tacoma Community Redevelopment Authority
 Attn: Administrator
 747 Market Street, Room 808
 Tacoma WA 98402
 Facsimile: (253) 591-5180

Notices shall be effective upon receipt, if given by personal delivery, the earlier of (i) three (3) business days after deposit with United States Mail, or (ii) the date of actual receipt as evidenced by the return receipt, if delivered by certified mail, and one (1) day after deposit with the delivery service, if delivered by overnight guaranteed delivery service. Each party shall promptly notify the other party of any change(s) of address to which notice shall be sent pursuant to this Regulatory Agreement.

f. Exhibits. Each Exhibit mentioned in this Regulatory Agreement is attached hereto and incorporated herein by this reference.

g. Execution in Counterparts. The parties may execute this document in two or more counterparts; each counterpart shall be deemed an original instrument as against any party who has executed it.

IN WITNESS WHEREOF, CITY and Owner have caused this instrument to be executed on their behalf by their respective officers hereunto duly authorized as of date first written above.

**ORAL AGREEMENTS OR ORAL COMMITMENTS TO LEND MONEY,
EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT
OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

CITY:

**COMMUNITY AND ECONOMIC
DEVELOPMENT DEPARTMENT**

Date: _____

By: _____
Ricardo Noguera, Director

OWNER:

**TACOMA COMMUNITY REDEVELOPMENT
AUTHORITY**

Date: _____

By: _____
Carey K. Jenkins, Administrator

STATE OF _____)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Community & Economic Development Director of the City of Tacoma, a municipal corporation in the State of Washington, to be the free and voluntary act and deed of such municipal corporation for the uses and purposes mentioned in the instrument.

(seal or stamp)

Date: _____

Notary Public in and for the State of Washington,
residing at _____
My commission expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Administrator of the Tacoma Community Redevelopment Authority, a public corporation, to be the free and voluntary act and deed of such public corporation for the uses and purposes mentioned in the instrument.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

(seal or stamp)

Date: _____

Notary Public in and for the State of Washington,
residing at _____
My commission expires _____

EXHIBIT "A"
LEGAL DESCRIPTION OF ELIGIBLE PROPERTY

Lot 8 and 9, Block 1222, MAP OF NEW TACOMA, WASHINGTON TERRITORY, according to the Plat filed for record February 3, 1875, in the Office of the County Auditor, in Tacoma, Pierce County, Washington ;

TOGETHER WITH the Easterly 10 feet of the vacated alley abutting and adjoining said lots, vacated by Ordinance No. 2070 of the City of Tacoma, which upon vacation attached to said premises by Operation of Law ;

Situate in the County of Pierce, State of Washington.