

SUBGRANTEE AGREEMENT

Brookridge Apartments Sewer Design

Start: July 1, 2011
End: June 30, 2012

BY:
City of Lakewood

PIERCE COUNTY HOUSING AUTHORITY
P.O. BOX 45410
TACOMA, WA 98445
Contact: Karen Hull, Executive Director
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Subgrantee Agreement: Brookridge Apartments Sewer Design

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Title: Brookridge Apartments Sewer Design
Starting Date: July 1, 2011
End Date: June 30, 2012
FY/\$: FY2011 - \$34,719.00
Subgrantee: Pierce County Housing Authority
Contact: Karen Hull
Telephone: (253) 620-5400

SUBGRANTEE AGREEMENT FOR PHYSICAL IMPROVEMENT PROJECTS

Between the CITY OF LAKEWOOD, through its Community Development Department (identified in this document as the City or "LGS") and **Pierce County Housing Authority** (identified in this document as the Subgrantee), for the project identified as **Brookridge Apartments Sewer Design**, which is a federally funded project through Community Development Block Grant FY 2011 BM11MC530016 from the U.S. Department of Housing and Urban Development. The parties are desirous of entering into an agreement as follows:

WITNESS: The parties hereto agree to faithfully perform the following services in accordance with stated terms and conditions.

I. SCOPE OF SERVICES

- A. **CDBG Activity – 570.202 (b) (2) – Housing Rehabilitation and Preservation**
The intent of this Agreement is to provide for the design and permit review requirements for the installation of a sewer mainline extension and side sewers at the Brookridge Apartment complex, located at 7330 146th St. SW.
National Objective – 570.208 (a) (3) – Low/Mod Housing
- B. To accomplish the intent of this Agreement, the Subgrantee and the City shall perform the services described in Exhibit A, which is made a part of this Agreement.

II. CONSIDERATION

- A. In consideration of the mutual promises given and the benefits to be derived from this Agreement, the City agrees to provide Community Development Block Grant funds in the amount of **\$34,719.00 (Thirty-four thousand Seven hundred Nineteen and No/100 dollars)** to accomplish the Scope of Services described above. The project budget and applicable financial requirements are provided as Exhibit B, which is made a part of this Agreement.
- B. The project tracking and accounting codes for this project will be:

FY 2011-08

- C. This code should be referenced in all documents and reimbursement requests forwarded to LGS.

III. PERIOD OF PERFORMANCE

The **Brookridge Apartments Sewer Design** project agreement shall be effective July 1, 2011 and, subject to Article IV of Exhibit D, shall be completed no later than June 30, 2012, or until all funds are expended, whichever occurs later.

IV. INSURANCE AND BONDS

The Subgrantee and its Contractors and Consultants shall maintain insurance and bonds as specified in Exhibit C.

V. GENERAL TERMS AND CONDITIONS

The general terms and conditions of this Agreement are provided as Exhibit D, which is made a part of this Agreement.

STATEMENT OF WORK

I. GENERAL

- A. **CDBG Activity – 570.202 (b) (2) – Housing Rehabilitation and Preservation**
The intent of this Agreement is to provide for the design and permit review requirements for the installation of a sewer mainline extension and side sewers at the Brookridge Apartment complex, located at 7330 146th St. SW.
National Objective – 570.208 (a) (3) – Low/Mod Housing

II. SUBGRANTEE RESPONSIBILITY

- A. To accomplish this intent, the Subgrantee shall:
1. Comply with all noted regulations, requirements, and conditions of the Agreement.
 2. Plan, administer and implement a project/program to provide for the design and permit review requirements for the installation of a sewer mainline extension and side sewers at Brookridge Apartments, located at 7330 146th St. SW, incorporating the following goals, objectives, and methods specified in the Subgrantee's approved project application.
 3. Evidence contract compliance and provide contract documentation as follows. Compliance will be judged by the following performance criteria:
 - a. Subgrantee preparing in consultation with the Community Development Department, all specifications, bid documents, and request for qualifications (RFQ) to incorporate and include Federal compliance requirements and procurement regulations.
 - b. Subgrantee establishing a time line for project implementation and completion.
 - c. Subgrantee providing City with completed project bid specifications/packet, request for qualification proposals, including scope of proposal for all work to be performed and allowing ten working days for City review and approval prior to advertisement or release of proposals of bids.
 - d. Subgrantee shall evaluate all bids and proposals, and recommend to the City for approval the award/non-award of contracts for all procurement, including design and locating consultant services.
 - e. Subgrantee conducting periodic progress inspections to ensure timeliness completion of the project. As required, the Subgrantee shall comply with Davis Bacon Act for federal labor standards and provide the Community Development Department with

affidavits of certified payroll and appropriate documents as required by the Community Development Department for compliance from contract award to closeout.

- f. Subgrantee shall provide for the location of all underground utilities located on or near the proposed project site. Utilities location shall include water, power, existing septic systems, cable, phone, and any unknown systems. Upon completion of surveying, provide the City an accurate topographical and boundary survey for the proposed project.
- h. Subgrantee shall submit a final design and survey to the Pierce County Utilities and Health Departments for final approval. Upon approval, provide a copy of the final permits as issued.
- i. Subgrantee officially "accepting" project from vendor(s) and forwarding a copy of such acceptance to the City.
- h. Subgrantee representatives meeting with representatives from the City as may be necessary to implement and complete the project.
- i. Subgrantee shall comply with CFR 570.503 (b) (8) (i) and not change the use or planned use of the property acquired as a low-income apartment until five (5) years after the expiration of the FY 2011 CDBG grant agreement from which the assistance to the property was provided and 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. In the event that the property is not used in accordance with CFR 570.503 (b) (8) (i), the Subgrantee will be required to pay the City an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to the property.
- j. **Subgrantee shall provide progress reports on the design and permitting process at the request of the City. Reports shall be provided within 10 days of written request or notification.**
- k. **Subgrantee shall provide necessary documentation verifying that over 51% of the total assisted housing units are occupied by low to moderate income Lakewood residents at the time of project completion.**
- l. **At project completion, the Subgrantee shall submit a final report that clearly indicates the total project funds expended (CDBG and non-CDBG funds), total number of dwelling units assisted, size and income of each household by unit number, race, age and ethnicity data for each household, and the rent charged for each unit.**

NOTE: For the purposes of Community Development Block Grant funding, rents charged shall not exceed the fair market

rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111.

4. Failure to implement the project or to demonstrate substantial progress within 90 days of signature of this Agreement, or to meet an average of 90 percent of the performance criteria for three consecutive months shall cause the City to re-evaluate the need for, and methods of the project. The result of such reevaluation may necessitate restructuring of the project; redefinition of goals and objectives; or, termination of the contract for lack of need, ineffective or improper use of funds, and/or failure to implement the project in a timely and reasonable manner.
5. The Subgrantee shall provide information as required by the City to demonstrate compliance with regulations, eligibility, goals and objectives; to support the HUD annual Consolidated Annual Performance Evaluation Report (CAPER); and to support such other reports as may be required by the City.
6. The Subgrantee shall refund to the Community Development Block Grant fund any payment or partial payment expended by the Subgrantee or its Contractors and Consultants, which is subsequently found to be ineligible, inappropriate or illegal.

III. CITY RESPONSIBILITIES

- A. To accomplish the intent of this project the City shall:
 1. Provide administrative and financial oversight and direction in accordance with established laws and regulations.
 2. The City shall regularly consult with Subgrantee, on all matters of significance to the project.
 3. Provide technical assistance to the Subgrantee and its contractors and subcontractors, particularly regarding compliance with federal and local laws and regulations and in development of processes and procedures to assure attainment of project goals and objectives.
 4. Monitor and evaluate program performance against performance criteria noted above.
 5. Pay, on a timely basis, all Subgrantee, consultant, contractor and/or supplier, or other associated requests for payment, which are eligible and appropriate for payment, and which are supported by sufficient documentation.

BUDGET AND FINANCIAL REQUIREMENTS

Roof rehabilitation costs	<u>\$34,719.00</u>
Total	<u>\$34,719.00</u>

I. APPLICABLE REGULATIONS AND RESTRICTION

It is understood that Community Development Block Grant funds provided by this Agreement, and program income generated by this project, are federal funds administered by the City and are subject to those regulations and restrictions normally associated with federal programs including: OMB Circular A-21, A-87, A-110, A-122, A-128 and A-133 (as appropriate), the Washington State BAR's Manual, and other such uniform administrative requirements for grants-in-aid now in effect or which hereafter may be made applicable by local, state or federal laws or regulations. All of the above is incorporated in this Agreement by reference.

II. APPROVED USES, GRANT FUNDS

It is expressly understood that Community Development Block Grant funds may only be used for costs applicable to this Agreement which are included in the attached, approved project budget, may not be used for the general administration or operation of the Subgrantee, and may not replace non-federal funds in any jointly funded project.

III. INAPPROPRIATE FUNDS OBLIGATION

- A. Community Development Block Grant funds shall not be obligated for:
 - 1. Costs incurred prior to issuance of a formal Notice to Proceed, except as may be authorized for payment of the Subgrantee's Surety Bond or such emergency services as may be authorized by the City in Exhibit A.
 - 2. Any action subsequent to an order from the City for suspension or termination of the project, except as may be reasonably necessary for the protection of life and property; which could not otherwise be avoided; or which is otherwise eligible if the action precipitating the order for suspension or termination is found to be acceptable to the City.
 - 3. Costs subsequently found to be ineligible or inappropriate pursuant to federal regulations.

- B. The Subgrantee shall refund to the Community Development Block Grant fund any payment or partial payment expended by the Subgrantee or its Contractors and Consultants, which is subsequently found to be ineligible, inappropriate or illegal.

IV. PAYMENT REQUESTS

Payment shall be by periodic request from the Subgrantee on its letterhead for approval by the City, for payment or reimbursement of costs actually incurred, or profit earned, supported by appropriate documentation, which proves beyond reasonable doubt that such payments are eligible and appropriate. Specific details regarding payment procedures may be worked out between the parties. The Subgrantee is prohibited from submitting claims in excess of actual requirements for carrying out the program. At a minimum, Subgrantee shall submit a payment request at least once during any month in which the Subgrantee or its contractors or consultants has expenditures of \$1,000 or more.

V. MULTIPLE YEAR FUNDING

Subgrantees whose projects are funded by multiple agencies or from multiple funding years, shall indicate in the project budget the agency and/or funding year from which the funds derive, and how those funds will be utilized.

VI. PROGRAM INCOME

Program income generated as a result of this project shall not be utilized by the Subgrantee. When program income is authorized to be utilized by the Subgrantee, that program income shall be substantially disbursed/expended before requesting release of additional Community Development Block Grant funds from the U.S. Treasury.

VII. UNEXPENDED FUNDS AND INCOME

At the conclusion of this Agreement, all unexpended Community Development Block Grant funds, any uncollected and/or unexpended program income remaining in Subgrantee's accounts, and any remaining equipment or operation supplies with a value in excess of \$5,000, shall be immediately returned to the account of the Community Development Block Grant fund unless specifically authorized to the contrary by Exhibit A to this Agreement or by a Change Order to that Exhibit.

INSURANCE AND BONDS

I. GENERAL

The following insurance and bonding requirements shall be applicable to the Subgrantee, its contractors and consultants. *Note: The City of Lakewood is to be named as an additional insured on all insurance policies.*

II. INSURANCE *(Required)*

The Subgrantee and its contractors and consultants shall carry throughout the life of this Agreement, General Liability insurance, Comprehensive Automobile Liability Insurance and such other coverage as may be appropriate. The Subgrantee shall complete a Certificate of Insurance, which is to be made part of this Agreement, such liability coverage to be not less than \$1,000,000.

III. BOND *(Required)*

The Subgrantee shall maintain, throughout the life of this Agreement, an annual Fidelity or Performance Bond in an amount not less than 25 percent of the value of this Agreement.

IV. BID BOND *(As Appropriate and Required)*

For any competitive construction bids required as part of this project, each bidder shall be required to submit with its bid, a bid bond in an amount not less than 5 percent of the value of the base bid, or in lieu of such bond, to provide other acceptable security in a like amount.

V. CONSTRUCTION, PERFORMANCE & PAYMENT BONDS

Each construction contractor on this project shall be required to maintain, throughout the life of any construction contract, a 100 percent performance bond. Each construction contractor shall also maintain throughout the life of any construction contract, a payment bond, guaranteeing payment to subcontractors and suppliers in an amount equal to the total amount of work and materials to be subcontracted and/or purchased.

VI. HOLD HARMLESS

The Subgrantee shall defend, protect, and hold the City harmless for any loss, damage, action, expense, claim or demand resulting from the Subgrantee's or any subcontractor's negligent omission or failure to comply with the provisions of this Agreement, any federal requirement, or failure to maintain adequate records to demonstrate such compliance. No waiver of performance by either party to this

Agreement shall be construed or operate as a waiver of any subsequent requirement under any terms, covenants, or conditions of this Agreement. These provisions shall survive expiration of this Agreement.

The Subgrantee, and its contractors, subcontractors and consultants, also agrees to defend, indemnify, and save harmless the City of Lakewood, its appointed and elected officers and employees from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys fees and costs by reason of any and all claims and demands upon the City, its appointed or elected officers or employees for damages because of personal or bodily injury, including death, at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Subgrantee, its contractors, subcontractors or consultants, and the City of Lakewood, its appointed and elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the City, its appointed or elected officers or employees.

- A. If the claim, suit, or action for injuries, death, or damages as provided for in the preceding paragraph is caused by or results from the concurrent negligence of:
 - 1. The indemnitee or the indemnitee's agents or employees, and
 - 2. The indemnitor or the indemnitor's agents or employees, the indemnity provisions provided for in the preceding paragraph shall be valid and enforceable only to the extent of the indemnitor's negligence.

- B. The Subgrantee, its contractors, subcontractors, or consultants specifically and expressly waive any immunity under Industrial Insurance Title 51, RCW, and acknowledges that this waiver was mutually agreed by the parties hereto.

GENERAL TERMS AND CONDITIONS

I. CHANGES AND AMENDMENTS

- A. All changes and amendments to this Agreement, except for the return of unused funds following project completion, shall be by written, formal Change Order in a style and form acceptable to the City.
- B. No change or amendment to this Agreement shall be implemented pending execution by both parties of the formal Change Order, except when immediate implementation of the change or amendment shall be necessary and reasonable to protect life or property, or could not otherwise be avoided. In such instance, verbal confirmation shall be obtained as quickly as reasonably possible and a formal Change Order issued within three working days.

II. RELATIONSHIP

The relationship of the Subgrantee to the City shall be that of an independent agency. The Subgrantee shall have no authority to execute contracts or make agreements or commitments on behalf of the City and nothing in this Agreement shall be deemed to create the relationship of employer/employee or principal/agent between the parties.

III. ASSIGNABILITY

The Subgrantee shall not assign any interest in this Agreement and shall not transfer any interest in the Agreement to any party without prior written consent of the City.

IV. SUSPENSION AND TERMINATION

- A. There are five reasons for suspension or termination of this agreement. They are:
 - 1. **By fulfillment.** The contract will be considered to be terminated upon fulfillment of its terms and conditions.
 - 2. **By mutual consent.** The Agreement may be terminated, or closed in whole or in part at any time if both parties consent to such termination or closure, the terms of which shall be documented in a Change Order to the Agreement.
 - 3. **By 15 days notice for convenience.** The City of Lakewood may suspend or terminate this Agreement in whole or in part, for convenience, upon 15 days written notice to the Subgrantee.

4. **For cause.** The City of Lakewood may suspend or terminate this Agreement in whole or in part, for cause, when the Subgrantee has failed in whole or in part to meet its commitments and obligations as outlined below and when the City of Lakewood deems continuation to be detrimental to its interests. Cause includes:
 - a. failure to comply with the terms and conditions of this Agreement, or to substantiate compliance;
 - b. ineffective, improper or illegal use of project funds or resources.
 - c. provision of materials, information, reports or documentation which is incomplete, incorrect or false, either knowingly or inadvertently;
 - d. failure to implement the project or to proceed thereon in accordance with approved project schedules;
 - e. any illegal act; or
 - f. Failures to resolve in a timely fashion, audit findings associated with this or other federally funded programs.
 5. **By impossibility.** The City of Lakewood may suspend or terminate this Agreement in whole or in part if, for any reason, the carrying out of this Agreement in the time and manner specified is rendered unfeasible or impossible.
- B. In the event of suspension or termination for convenience or cause, the City of Lakewood shall provide formal, written notification of that fact to the Subgrantee by certified letter, or by letter requiring the Subgrantee's acknowledgement of receipt.
 - C. Upon receipt of such written notification, the other party shall immediately take action to comply, ceasing or stopping at its earliest opportunity such operations as may reasonably be stopped without endangering life or property. All actions for cause covered by the notice are to be fully suspended or terminated as quickly as possible but no more than five calendar days following receipt of said notification. All actions for convenience covered by the notice are to be fully suspended or terminated as quickly as possible but no more than 15 days following receipt of such notification. When additional actions of the Subgrantee are required to protect life or property, it shall immediately notify the City of Lakewood in

writing of such actions and shall proceed to implement any further written instructions of the City of Lakewood.

- D. In the event of such suspension or termination by the City of Lakewood, the Subgrantee may recover any reasonable and otherwise allowable costs incurred in compliance with written direction of the City of Lakewood relative to activities required to complete outstanding work or additional work resulting from such suspension or termination.
- E. The City of Lakewood may withhold or suspend payments due under this Agreement for any lawful purpose, but shall provide written instruction to the Subgrantee within five working days indicating actions which may be taken by them to release payment or remove suspension.
- F. Termination of this agreement by the City at any time, with or without prior notice, shall not constitute a breach of this agreement.
- G. Actions by either party under this Article shall not constitute a waiver of any claim by either party arising from conditions or situations leading to such suspension or termination.

V. PROCUREMENT, SUBCONTRACTS

The Subgrantee may, upon the City's prior review and specific written approval of the contract instrument, enter into any contract or procurement action authorized or necessary for the successful completion of this Agreement (other than contracts for incidental procurements not directly related to the accomplishment of this project which do not require City approval). All procurement actions and contracts other than incidental procurements shall be structured in accordance with applicable state and federal law relating to contracting by public agencies. Contact the City for specific language to be incorporated in each contract or procurement action.

VI. SEVERABILITY

If any provision of this Agreement, or portion thereof is held invalid, the remainder of this Agreement shall not be affected, providing the remainder continues to conform to applicable federal and state law and regulations.

VII. RECORDS

Project records must be retained for a period of at least four (4) years after completion or closure of the project. The public shall be granted reasonable access to all "public records".

The Subgrantee shall establish and maintain current, throughout the term of this agreement, the records described in this paragraph and more specifically set forth

in accordance with 24CFR 570.506. Except where otherwise specifically provided, all records shall be kept on accessible file for four years after the contract completion date and be available for inspection by City, State or Federal officials, auditors or other authorized agents. Records to be maintained are:

- A. This agreement, amendments and requests for approval.
- B. Complete description of each CDBG funded activity, its location, rental records, tenant income and general household information, total project funds expended, rents charged, general tenant lease information, and fees charged.
- C. Program benefit data documenting that 51% of the beneficiaries are households of low or moderate income as more specifically set forth as part of this agreement in the "Scope of Work."
- D. Financial data showing the source and application of all funds, and recording funds received under this agreement as well as all other receipts, assets, authorizations and appropriations, obligations, disbursements and unobligated balances in accordance with 24 CFR 84.21 for nonprofit organizations or 24 CFR 85.20 for governmental entities.
- E. Subgrantee's program policies and procedures, employee qualifications, training and evaluation, and agency's self-evaluation.
- F. Principal operations data including staff hours dedicated to this project.
- G. Real and personal property acquired or improved in whole or in part with CDBG fund asset for in 24 CFR 570.505 for nonprofit organizations or 24 CFR 85.31 and 85.2 for governmental entities.
- H. Subgrantee's standard operating procedures for authorizing and executing purchases and contract procurement, and records documenting individual purchases or contracts over \$10,000 as set forth in 24 CFR 84.40 through 84.49 for non-profit organizations or 24 CFR 85.36 for governmental entities.
- I. Non-discrimination and equal opportunity as it pertains to tabulation of racial classifications of all individual persons or households receiving program benefits, and whether they are single heads of household; tabulation of all Subgrantee's employees classification by race, position and salary; all substantive actions taken to assure that no prohibited discrimination occurs in the conduct of any of the Subgrantee operations; all actions taken to make minority residents aware of the Subgrantee's services and provide them with equal access of benefits; racial classification and gender of the majority owners of each private for profit business with which the Subgrantee contracts with any funds provided under this agreement.
- J. Efforts made to comply with Section 3 of the Housing and Urban Development Act of 1968 and implementing regulations at 24 CFR Part 135.
- K. All procurement and contract award documentation for all materials, consulting or professional services, and subcontracting associated with this agreement.

VIII. ACCESS, EXAMINATION, MONITORING AND AUDIT

- A. The City, the State Auditor, HUD, a selected independent auditor, or their delegates shall have the right of access to, and the right to examine, monitor and copy all business records, books, papers and documents relating to the grant, pursuant to appropriate state and federal regulations, requirements and standards, all of which are incorporated herein by reference. Such access, examination and monitoring may include, but is not limited to, inspections and reviews on site, or in the office of the Subgrantee, or any contractor, subcontractor, or supplier receiving CDBG funds. Client confidentiality will be respected and maintained to the greatest possible degree.
- B. Each local government or non-profit recipient (Subgrantee) of federal funds from any source is required to obtain periodically, an audit of its activities which shall meet or exceed the criteria for audits of federal programs set forth in OMB Circulars A-110, A-128 and A-133 (as applicable). The Subgrantee shall be obligated to resolve findings relating to use of CDBG funds in a timely manner.
- C. Prior to commencement of this project, if the Subgrantee has recently used federal funds, the Subgrantee shall furnish to the City for review a copy of its latest audit including all findings related to the use of CDBG funds, and the Subgrantee's resolution of those findings. Similarly, within 30 calendar days of the completion of any subsequent audit, the Subgrantee shall provide the same information noted above to the City. If warranted by audit findings, the Subgrantee's failure to comply with applicable laws and regulations relating to use of CDBG funds, or the Subgrantee's failure to resolve such findings in a timely manner, the City of Lakewood may apply appropriate sanctions including the suspension of this Agreement, withholding a percentage of payments due, or disallowance or withholding of Subgrantee's overhead costs as specified by federal regulations.

IX. CODE OF CONDUCT

- A. No officer, employee or agent of the Subgrantee shall participate in the selection, award, or administration of activity funded in whole or in part with CDBG funds if a conflict of interest, real or apparent, would exist; nor shall their families, or those with whom they have business ties, so benefit.
- B. In addition to the above, no official, employee or agent of any federal, state or local government for the area in which this project is located, nor members of their families, nor those with whom they have business ties, have or acquire any interest, direct or indirect, in any contract or subcontract or its proceeds for work accomplished in support of this Agreement, nor shall

they have or acquire any interest, direct or indirect, in the project area which would conflict in any manner or degree with this project

X. RIGHTS IN DATA

The City and HUD retain a non-exclusive, royalty free, and irrevocable right to duplicate, use for their own purposes, disseminate, disclose, or authorize others to utilize all data and materials generated and/or provided hereunder.

XI. PROPERTY, MATERIALS AND OPERATING SUPPLIES

- A. Upon expiration of this agreement, the Subgrantee shall transfer to the City any CDBG funds on hand and any accounts receivable attributable to the use of CDBG funds. Any real property acquired or improved with CDBG funds including CDBG funds provided in the form of a loan in excess of \$25,000 must be used to meet one of HUD's national objectives until five years after expiration of the closeout of the grant or the Subgrantee shall pay to the City an amount equal to the current market value of the property less any portion of the value attributable to the expenditures of non-CDBG funds for the acquisition of, or improvement to the property.
- B. Disposition of real property acquired in whole or in part with Block Grant funds shall be at current appraised fair market value. However, that property may be disposed of for lesser value, including donation, if the disposition at the lesser value is necessary to meet one of HUD's national objectives and is permissible under state and local law. When disposition is recommended by the Subgrantee for a lesser value, or if the City should determine that disposition for such lesser value is in the best interest of the program, those reasons shall be fully documented.
- C. Non-expendable equipment, materials, operating supplies and assets other than real property, purchased in whole or in part with Block Grant funds, whose per unit (or total value for supplies) fair market value at the time of completion of use is in excess of \$5,000, are the property of the Block Grant program and are to be utilized, maintained, inventoried, controlled, and disposed of pursuant to applicable federal regulations. The Subgrantee shall be responsible for loss or damage to all such equipment, material and assets in its care and, after completion of use, shall return all such equipment, materials and assets to the City for disposition within 30 days following completion of the project(s), unless otherwise specified.
- D. If such equipment, materials, operating supplies or other assets are partially funded from other sources, the City shall share any funds received as a result of said disposition at a percentage of value received equal to the percentage of the original costs provided by the individual funding sources.

- E. Any equipment, materials, operating supplies and other assets whose per unit (or total value for supplies) fair market value at time of project completion or final use is less than \$5,000, may be retained or disposed of by the Subgrantee without further obligation to the City. Any asset, whose fair market value is in question, should be referred to the City for review before any disposition action is taken by the Subgrantee.

XII. COMPLIANCE WITH FEDERAL REGULATIONS

A. The Subgrantee and all its consultants and contractors shall comply with the following federal laws and regulations. Said laws and regulations are incorporated and make a part of this Agreement by reference:

1. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) relating to nondiscrimination in performance of this project and to the benefits deriving from it as implemented by HUD regulation 24 CFR 570.601(a).
2. Title VIII of the Civil Rights Act of 1968 (P.L. 90-284) as amended, relating to nondiscrimination in housing as implemented by HUD regulation 24 CFR 570.601(b).
3. The Fair Housing Act (42 U.S.C. 3601-3620) relating to nondiscrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status.
4. Age Discrimination Act of 1975, as Amended (42 U.S.C. 6101), concerning the prohibition of age discrimination in programs receiving Federal financial assistance as implemented by HUD regulation 24 CFR Part 146.
5. Executive Order 11063 relating to non-discrimination in housing as amended by Executive Order 12259 and as implemented by HUD regulation 24 CFR 570.601(c).
6. Section 109 of the Housing and Community Development Act of 1974 as amended, dealing with non-discrimination in program benefits because of race, religion, color, age, national origin, sex or disability as implemented by HUD regulation 24 CFR 570.602.
7. Americans with Disabilities act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) which provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services and telecommunications.

8. Fair Housing Act, providing that multi-unit family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19).
9. Section 504 of the Rehabilitation Act of 1973, relating to nondiscrimination in federally assisted programs on the basis of handicap and requiring that "qualified individuals with handicaps" have access to programs and activities that receive federal funds.
10. The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157), requiring certain federal and federally funded buildings and other facilities be designed, constructed or altered in accordance with standards ensuring accessibility to, and use by, physically handicapped people.
11. The construction labor standards and wage rates set forth in Section 110 of the Housing and Community Development Act of 1974 as amended and as implemented by HUD regulation 24 CFR 570.603.
12. Contract Work Hours and Safety Standards Act, as Amended (40 U.S.C. 327-333), concerning mechanics and laborers employed on federally-assisted construction jobs be paid time and one-half for work in excess of 40 hours per week, and provides for the payment of liquidated damages if violations occur. This Act also addresses safe and healthy working conditions.
13. Copeland (Anti-kickback) Act (40 U.S.C. 2776c), governing allowable deductions from paychecks. The Act makes it a criminal offense to induce anyone employed on a federally assisted project to relinquish any compensation to which he/she is entitled, and requires all contractors to submit weekly payrolls and statements of compliance.
14. Fair Labor Standards of 1938, as Amended (29 U.S.C. 201, et seq.), establishing the basic minimum wage for all work and requires the payment of overtime at the rate of at least time and one-half. It also requires the payment of wages for the entire time that an employee is required or permitted to work, and establishes child labor standards.
15. Executive Order 11246 dealing with nondiscrimination in employment as amended by Executive Orders 11375 and 12086 and as implemented by HUD regulation 24 CFR 570.607(a).
16. Section 3 of the Housing and Community Development Act of 1968 as amended, dealing with employment and training of City low-income residents as employees and trainees and utilization of the City of Lakewood business as contractors, subcontractors, and suppliers as implemented by HUD regulation 24 CFR 570.607(b).

17. Executive Order 11988 relating to evaluation of flood hazards and the flood hazard and insurance protection requirements of Section 102(a) and 202(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) as implemented by HUD regulation 24 CFR 570.605.

18. Section 202 of the Flood Disaster Projection Act of 1973 (42 U.S.C. 4106), requiring that Federal funds not be provided to an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless: 1. The community is participating in the National Flood Insurance Program, or it has been less than a year since the community was designated as having special flood hazards; and 2. Flood insurance is obtained in accordance with Section 102(a) of the Act.

19. The relocation, acquisition and displacement requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as implemented by HUD regulation 24 CFR 570.606.

20. The Lead Based Paint Poisoning Prevention Act (42.U.S.C. 4801 et seq.) as implemented by HUD regulation 24 CFR 570.608.

21. The regulations, policies, guidelines and uniform administrative requirements of OMB Circulars A-21, A-87, A-110, A-122 and A-128 as they relate to the acceptance and use of Federal funds as implemented by HUD regulation 24 CFR 570.610.

22. National Environmental Protection Act of 1969, providing that an environmental review (NEPA Part 58) must be completed by the City prior to commitment of funds, CDBG, HOME or otherwise. All parties shall comply with all conditions and requirements of the National Environmental Policy Act of 1969 and other statutory environmental requirements as implemented by HUD regulation 24 CFR Part 58, as directed by the City.

Funds shall not be committed by the Department or any subrecipient, CDBG or otherwise, prior to notification by the City of successful completion of a NEPA Part 58 Environmental Review.

23. Executive Orders 11625, 12138 and 12432, and Public Law 95-507, dealing with the use of minority and women owned business enterprises as implemented by HUD regulation 24 CFR 85.36(e).

24. The provisions of the Hatch Act limiting political activities of government employees.

25. Executive Order 11288 relating to the prevention, control and abatement of water pollution.

26. HUD Regulations for implementing the Community Development Block Grant Program contained in 24 CFR 570.

Note: Copies of applicable laws and regulations are available upon request from the Community Development Department. A listing of these applicable laws and regulations are to be incorporated in each contract, subcontract and consultant agreement issued by the Subgrantee or its contractors.

XIII. PROJECT ELIGIBILITY

A. National Objectives

All physical improvement projects authorized under the Block Grant program must meet one of three national objectives. The project must:

1. Principally benefit lower-income individuals (or families),
2. Eliminate slums and/or blight, or
3. Meet an urgent need.

Detailed definitions of these objectives are set forth in HUD regulations.

B. Eligibility Requirements

1. All City of Lakewood residents (individuals or families) whose family income equals or is less than the HUD Section 8 Income Guidelines (which are incorporated in this Agreement by reference) shall be considered as lower-income for the purposes of determining whether clients served are lower-income unless specified to the contrary in Exhibit A.
2. Questions regarding eligibility or the definition of direct/indirect benefits (services) shall be referred to the City of Lakewood Community Development Department.
3. Monitoring of all projects shall be conducted by the City to verify compliance with all federal requirements.

XIV. AFFIRMATIVE ACTION

If the Subgrantee has an established Affirmative Action Plan in place, it shall furnish a copy to the City as part of this Agreement. In all hiring or employment made possible by or resulting from this contract (i) there will not be any discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin, and (ii) affirmative action will be taken to

ensure that applicants are employed, and that that employees are treated during employment without regard to their race, color, religion, sex, or national origin. This requirement shall apply to, but not limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. There shall be posted in conspicuous places available to employees and applicants for employment, notices setting for the provision 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, or national origin. Each participant in this contract 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.

XV. DEBARRED CONTRACTORS

The Subgrantee, and its consultants and contractors shall not fund, contract with, or engage the services of any consultant, contractor, subcontractor, supplier, or other party who is debarred, suspended, or otherwise ineligible to receive federal funds. The names of all contractors, subcontractors, consultants, suppliers, and other parties who will receive federal funding under this project shall be checked and approved by the City before entering into any agreement with them for the provision of goods or services on this project.

XVI. SUBGRANTEE'S EMPLOYEES – EMPLOYMENT ELIGIBILITY REQUIREMENTS

The Subgrantee, its consultants, contractors, and any subcontractors shall comply with E-Verify as set forth in Lakewood Municipal Code Chapter 1.42. E-Verify is an Internet-based system operated by United States Citizenship and Immigration Services in partnership with the Social Security Administration. E-Verify is free to employers and is available in all 50 states. E-Verify provides an automated link to federal databases to help employers determine employment eligibility of new hires and the validity of their Social Security numbers. The Subgrantee shall enroll in, participate in and document use of E-Verify as a condition of the award of this Agreement. The Contractor shall continue participation in E-Verify throughout the course of the Subgrantee's contractual relationship with the City. If the Subgrantee uses or employs any consultants, contractors, or subcontractors in the performance of work under this Agreement, or any subsequent renewals, modifications or extension of this Agreement, the consultant, contractor, or subcontractor shall register in and participate in E-Verify and certify such participation to the Subgrantee. The Subgrantee shall show proof of compliance with this section, and/or proof of subcontractor compliance with this section, within three (3) working days of the date of the City's request for such proof.

XVII. DRUG FREE WORKPLACE

The Subgrantee shall maintain a drug free workplace(s) throughout the life of this Agreement.

XVIII. LOBBYING CERTIFICATION

A. The Subgrantee certifies that, to the best of its knowledge and belief:

1. No federal appropriated funds have been paid, or will be paid by, or on behalf of the Subgrantee, or any of its elected or appointed officials or employees, 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.

2. If 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 federally funded agreement, the Subgrantee shall complete and submit to the City, a federal Standard Form-LLL, "Disclosure Form To Report Lobbying" in accordance with its directions. The form is available from LGS upon request.

3. The Subgrantee shall require that the language 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 subrecipients shall certify and disclose accordingly.

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

XIX. VOLUNTEER LABOR

Volunteer labor utilized by Subgrantees on physical improvement projects is exempt from Davis-Bacon prevailing wage requirements providing that such volunteers receive no more than limited compensation, benefits, expenses, etc. for

their services and that the volunteers are not otherwise employed on the project in any construction capacity. Any use of volunteer labor must be fully documented by the Subgrantee and pre-approved by the City of Lakewood.

XX. RELIGIOUS ACTIVITY

- A. The First Amendment to the Constitution of the United States of America prohibits Congress from enacting any laws respecting the establishment of religion. Subsequent interpretations have resulted in a policy of separation of church and state. To ensure compliance with that constitutional prohibition, regulations have been established for the Community Development Block Grant (CDBG) program limiting involvement with religious organizations.
- B. Where Subgrantees or owners of property receiving assistance from CDBG funds are pervasively sectarian organizations, sponsor religious activity of any sort, or have a degree of affiliation with one or more pervasively sectarian organizations, the following shall apply:
 - 1. It shall 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;
 - 2. It shall not discriminate against any person applying for such services on the basis of religion and will not limit such services or give preference to persons on the basis of religion; and
 - 3. It shall 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 such services.
- C. CDBG funds will not be used for the acquisition, improvement, rehabilitation, renovation or construction (including historical preservation or removal of architectural barriers) of any structure or property owned and/or operated by a pervasively religious organization where that structure or property is used for conducting religious worship services, religious instruction, proselytizing, religious counseling or other religious purpose, or for promoting religious interests unless:
 - 1. The structure or property is used for a wholly secular purpose;
 - 2. The structure has been leased to or purchased by a wholly secular organization;
 - 3. The assistance is provided directly to the wholly secular organization;

4. The structure or property is open to all persons without any religious preference, prohibition, barrier or restraint,
 5. The lease payments or acquisition value do not exceed fair market rates;
 6. Any improvements to non-leased facilities are paid for with non-CDBG funds;
 7. Lessee and lessor enter a formal, binding agreement for leasing the structure or property for the useful life of the improvement accomplished with CDBG funds or the length of the CDBG interest specified in Article XI A, whichever is shorter; and;
 8. In the event that the lease does not continue for the useful life of the improvement or the length of the CDBG interest, whichever is shorter, that a pro rata portion of the fair market value of the property and/or structure at the time of the discontinuation, proportional to the percentage of CDBG funds used to acquire and/or improve the property and/or structure, be returned to the CDBG program, or such other arrangement be reached which is agreeable to all parties.
- D. Finally, where secular structures funded in whole or part with CDBG funds are leased, rented, loaned, provided, or used by any religious organization or activity, for any purpose, religious fixtures, signs, representations, etc., may not be permanently attached to such secular structure. Such items may be displayed when, and only when the religious activity is taking place.

XXI. ACCESSIBILITY FOR PERSONS WITH DISABILITIES

To meet the requirements of Section 504 of the Rehabilitation Act of 1973 pertaining to program accessibility for persons with disabilities, and implementing HUD regulations, each Subgrantee is required to assess its capability for compliance therewith, and for compliance with the Americans with Disabilities Act of 1990. Each Subgrantee is required to complete, and submit for review with the signed Agreement, the enclosed Section 504 Checklist, and such of its attachments as may be appropriate. The City will review and evaluate each Checklist, and will inform the Subgrantee of any areas of apparent concern.

XXII. NON-CITIZENS

Persons who are residents of the United States, but who are NOT citizens thereof, shall **NOT** be denied services, or the benefits to be derived therefrom, under this contract, as a result of their citizenship status.

XXIII. NOTICES

Notices to be given by the City or the Subgrantee shall be considered given for the purpose of this Agreement if mailed by regular mail to the City or the Subgrantee at the addresses provided below.

Subgrantee: Karen Hull, Executive Director
Pierce County Housing Authority
P.O. Box 45410
Tacoma, WA 98445

City of Lakewood: City of Lakewood, Community Development Department- CDBG
6000 Main St. SW.
Lakewood, WA 98499

XXIV. INTEGRATED DOCUMENTS

This Agreement, including documents incorporated by reference and the laws, regulations and OMB Circulars cited herein or therein, embodies the entire Agreement of the parties with respect to the subject matter hereof. No verbal agreements or conversation with any officer, agent or employee of the City shall affect or modify any of the terms or obligations contained in any documents comprising this Agreement. Any such verbal agreement shall be considered as unofficial information and in no way binding upon either party.

Monthly Project Report

Project Name: _____

Date of Report Submittal: _____

Report Period: _____

Report Completed by: _____
(Name) (Job title)

Telephone Number: _____

The following project actions have been undertaken or completed during this reporting period:

- Advertisement for Professional Services (Engineering, Architect, other)
_____ Submitted to City for review/approval
_____ Dates of advertisement
_____ Selection method (RFP, RFQ, Price Comparison, Negotiated, etc.)
- Professional Services Agreement Awarded
_____ Date of award
_____ Agreement submitted to City for review/approved
- Job Specifications/Bid Document Developed
_____ Submitted to City for review/approval
_____ Wage determination obtained
_____ Federal Standards Included
- Advertisement for Construction/Surveying Services
_____ Date of advertisement
_____ Selection method (Sealed Bid, Small Purchase)
- Construction/Surveying Contract Awarded
_____ Date of award
_____ Contract submitted to City for review/approved
- Construction/Surveying Progress
_____ Reimbursement requested during this period
_____ Labor standards review during this period
- Plan/Permit Review Conducted
_____ Review conducted by Pierce County Utilities
_____ Review conducted by Pierce County Health Department
_____ Date permits obtained

Change in scope of project

Provide description of changes to scope, benefit, location, budget, timelines, etc.:

Project Delayed

Provide description of delay circumstances: _____

Construction/Surveying Completed

- _____ Inspections completed successfully
- _____ Retainage released
- _____ Retainage withheld pending review (labor compliance)
- _____ Retainage withheld pending review (acceptance of work)
- _____ Final request for reimbursement submitted

Attachments or Comments: _____

CITY OF LAKEWOOD

E-VERIFY REQUIREMENTS FOR CONTRACTORS

By Ordinance, the City of Lakewood requires that all contractors who enter into agreements to provide services or products to the City use the Department of Homeland Security's E-Verify system when hiring new employees for the term of the contract.

E-Verify is an electronic system designed to verify the documentation of job applicants. It is run by the Department of Homeland Security.

Who is affected?

- All contractors doing business for the City of Lakewood. There is no minimum dollar value for contracts affected.
- All subcontractors employed by the general contractor on these contracts.

Are there exceptions?

- Contracts for "Commercial-Off-The-Shelf" items are exempted from this requirement.
- Individuals, Companies, or other organizations who do not have employees.

How long must the contractor comply with the E-Verify system?

- For at least the term of the contract.

Are there other stipulations?

- E-Verify must be used ONLY for NEW HIRES during the term of the contract. It is NOT to be used for EXISTING EMPLOYEES.
- E-Verify must be used to verify the documentation of ANY new employee during the term of the contract, not just those directly or indirectly working on deliverables related to the City of Lakewood contract.

How will the City of Lakewood check for compliance?

- All contractors will retain a copy of the E-Verify Memorandum of Understanding that they execute with the Department of Homeland Security AND
- Sign and submit to the City an Affidavit of Compliance with their signed contract.
- All General Contractors will be required to have their subcontractors sign an Affidavit of Compliance and retain that Affidavit for 4 years after end of the contract.
- The City of Lakewood has the right to audit the Contractor's compliance with the E-Verify Ordinance.

Further information on E-Verify can be found at the following website:

<http://www.uscis.gov/e-verify>

If you have questions about the City's E-Verify Ordinance, please contact the City of Lakewood's legal department prior to contracting with the City.

CITY OF LAKEWOOD

AFFIDAVIT OF COMPLIANCE WITH LAKEWOOD MUNICIPAL CODE 1.42
"E-VERIFY"

As the person duly authorized to enter into such commitment for

(Company or Organization Name)

I hereby certify that the Company or Organization named herein will

(check one box below)

- Be in compliance with all of the requirements of City of Lakewood Municipal Code Chapter 1.42 for the duration of the contract entered into between the City of Lakewood and the Company or Organization.

OR

- Hire no employees for the term of the contract between the City and the Company or Organization.

NAME

Karen Hull

TITLE

Director

DATE

01/30/11