

**Intergovernmental Agreement
City of Gresham Agreement No.
City of Portland Agreement No. 30008217**

This intergovernmental agreement (IGA) is entered into by and between the City of Portland (hereinafter referred to as the "City") acting by and through its Portland Housing Bureau (hereinafter referred to as "PHB"), and the City of Gresham (hereinafter referred to as "Gresham" or "Sub-recipient") (hereinafter referred to collectively as the "Parties") for implementation of activities under the HOME Investment Partnership Program of the U.S. Department of Housing and Urban Development and the cooperation of units of local government under the authority of ORS 191.010.

Whereas the City of Portland and the City of Gresham have agreed to participate in the Portland HOME Consortium and entered into an intergovernmental agreement setting forth the terms and conditions of the Portland HOME Consortium;

Whereas the City of Portland is the Representative Member of the Portland HOME Consortium and with responsibility to carry out overall responsibility of the Portland HOME Consortium, with cooperation of all members, in accordance with HUD regulations in 24 CFR Part 92 and 91, respectively, and the Consolidated Plan.

Whereas the City of Gresham is a member of the Portland HOME Consortium along with Multnomah County, and the formula for allocating HOME funds to each member is described in the Portland HOME Consortium Agreement;

Whereas the purpose of this intergovernmental agreement is to describe the responsibilities of the parties and specify how the City of Gresham will allocate its Portland HOME Consortium grant award for the FY 2022-23;

NOW THEREFORE the parties agree as follows:

1. Effective Date and Duration

This IGA shall become effective on July 1, 2022 and shall terminate on June 30, 2023.

2. Agreement Manager

Each party has designated an IGA manager to be the formal representative for this Agreement. All reports, notices, and other communications required under or relating to this Agreement shall be directed to the appropriate individual identified below. The PHB manager is authorized to approve work and billings hereunder, to give notices referred to herein, to terminate the Agreement as provided herein, approve all changes except those that increase the total IGA amount.

| <u>PHB</u> | <u>City of Gresham</u> |
|--|---------------------------------|
| IGA Manager: | IGA Manager: Ashley Miller |
| 1900 SW 4 th Ave., Suite 7007 | 1333 NW Eastman Pkwy |
| Portland, OR 97201 | Gresham, OR 97030-3813 |
| (503) 823-0468 | 503-618-2404 |
| (503) 865-3426 (fax) | 503-618-2333 (fax) |
| Gena.Scott@portlandoregon.gov | Ashley.Miller@greshamoregon.gov |
| | EEO: Exempt |
| | Business License: Exempt |

3. Scope of Services

The statement of work is contained in Section II and III.

4. Grant Award to Gresham.

A. The amount of the grant award to Gresham under this IGA shall not exceed ONE MILLION, FIVE HUNDRED TWENTY-SEVEN THOUSAND, SEVEN HUNDRED EIGHTY-ONE Dollars (\$1,527,781) in HOME funds. The grant award requirements are contained in Section 11. Final invoice is due on **July 5, 2023**.

B. There is a total of \$1,527,781 in HOME funds available to Gresham in the City of Portland Housing Bureau Budget, comprised of \$657,372 in FY 2022-23 Gresham HOME funds, \$152,294 in FY 2022-23 Multnomah County HOME funds, \$658,887 in carryover funds, and \$59,228 in Program Income. The City of Gresham will implement a portion of the HOME Program in the amount of \$1,479,992 in accordance with the Budget (Exhibit A). The balance of Gresham's HOME Program funding is \$39,100 and will be administered by the City of Portland. The allocation of funds to be administered by the City of Portland is detailed in the Budget (Exhibit A).

5. Reporting

The reporting requirements are contained in Section 12. Final reports are due **July 14, 2023**.

6. Funding

This IGA may be paid fully or in part with funding from the U.S. Housing and Urban Development Department (HUD).

7. List of Exhibits

The following Exhibits are attached hereto and incorporated by reference into this IGA:

| <u>Document</u> | <u>Description</u> | <u>No. of Pages</u> |
|-----------------|---|---------------------|
| Exhibit A | Budget | 1 |
| Exhibit B | Contractor Information | 1 |
| Exhibit C | General Terms and Conditions for Subrecipient Contracts | 9 |

8. Definitions

- A. Integrated Disbursement and Information System (IDIS): The system for managing disbursement of funds in the HOME Program.
- B. Community Housing Development Organization (CHDO): A community-based, nonprofit housing organization as defined at 24 CFR 92.2.
- C. Period of Affordability: The length of time that HUD tenant guidelines, rent affordability, Housing Quality Standards and other compliance regulations apply to a particular project. The period of affordability will vary based on the HOME activity and the amount of subsidy provided to the project per 24 CFR Parts 92.252 and 92.254.

9. Scope of Services to be carried out by the City of Gresham

Under the terms of the Consortium Agreement, a portion of the HOME grant is provided directly to Gresham and Gresham is entitled to plan for the expenditure of such funds. Gresham has allocated its grant award as further described below:

- A. Down Payment Assistance, Proud Ground (\$285,000)
Funds will provide home buyer assistance and activity delivery costs for 3 Gresham first time homebuyers. Proud Ground will use HOME funds to purchase the land and greatly reduce the cost of the home to the buyer, while the buyer purchases the home on the land.
- B. Shared Appreciation Mortgage (SAM) Program – (\$350,000)
Funds to provide home buyer assistance and activity delivery costs for up to 10 low-income homebuyers in accordance with Gresham’s WELCOME HOME program. Location: Citywide

- C. Development Fund (\$805,892)
Gresham intends to fund a future affordable housing development project with the development set-aside fund. The project may be affordable rental housing or ownership development/homebuyer assistance.
- D. Program Administration (\$47,789)
Administration of program Staff and operating costs of the City of Gresham in administering the above projects and its HOME administrative responsibilities with \$47,789 for FY 2022-23.
- E. Scope of Services to be carried out by the City of Portland.
The City of Portland will conduct HOME eligible projects in accordance with the approved HOME Program Description and Budget Exhibit A, as follows:
- a. Portland HOME Consortium Administration (\$39,100)
Gresham will pay the City of Portland to carry out overall Consortium responsibility, for ensuring that the Consortium's HOME Program is carried out in compliance with the requirements of the HOME Program, including requirements for the Consolidated Plan in accordance with HUD regulations in 24 CFR Part 92 and 91, respectively.

10. Specific Provisions

Activities may be carried out by Gresham or project sponsors as appropriate and eligible under the HOME Program regulations contained in 24 CFR Part 92.

- A. Any proposed changes to the project activities must be approved by written amendment of this IGA. Changes may necessitate amendment of the approved Program Description and/or HUD review and approval. Gresham shall be responsible for preparing necessary documentation, justifications or materials to substantiate such changes and providing it to the City which will file or transmit such documents to HUD as appropriate. If HUD approval is required, changes to this IGA will not take effect until such approval is received.
- B. Under the terms of the HOME Consortium Agreement (Gresham Agreement #6462) the City of Portland retains the authority to amend this IGA for failure of Gresham in performing this IGA to meet any of the obligations imposed on it as a member of the HOME Consortium.
- C. Gresham will be responsible for performing all actions necessary to comply with the environmental review requirements contained in 24 CFR Part 58. Gresham may not commit any HOME funds to projects nor allow any activities that would have an adverse environmental impact or limit the choice of reasonable alternatives until the environmental review requirements contained in 24 CFR Part 58 have been met. Gresham will be responsible for preparing all review documents and publishing all

required public notices on behalf of the City and shall identify the City to receive any public comments. The City is the Certifying Officer for purposes of these requirements. The City will process all necessary Requests for Release of Funds (RROF). When the RROF has been approved by HUD, the City will notify Gresham that funds may be committed to the project. All review documentation, correspondence, public notices and other documents pertaining to environmental review shall be maintained by the City. These documents must be kept on site at the City of Gresham.

- D. Funds under this IGA must be obligated, committed and expended in IDIS according to the timelines described in the HOME regulations. 24 CFR Section 92.502
- E. As a member of the HOME Consortium, Gresham will adopt any amendments to the agreement that are necessary to meet HUD requirements for consortia agreements in successive qualification periods.
- F. Monitoring for Regulatory Compliance
 - a. Gresham will be responsible for monitoring all projects developed under this IGA for compliance with HOME regulations contained in 24 CFR 92 including all other applicable federal regulations such as Davis-Bacon, Lead Based Paint, etc.
 - b. Gresham shall monitor each project throughout the pre-development, development and rent-up phases to ensure that the project initially complies with the HOME and all other applicable federal regulations. No less than 90% of rental units developed under this IGA must be occupied by households whose annual incomes are at or below 60% of the area median income at initial occupancy. The remaining units must be occupied by households at or below 80% of area median income. 24 CFR 92.252
 - c. The City of Portland shall be responsible for ongoing monitoring during the period of affordability for each project. This monitoring shall include required housing quality inspections, compliance with rent guidelines, and income verification of tenants, as well as any other periodic monitoring requirement under the HOME regulations. 24 CFR 92.251
 - d. If at any time during the period of affordability a project is found by HUD not to qualify as affordable housing, the Consortium will be responsible for repaying such funds subject to first pursuing corrective and remedial actions and sanctions authorized at 24 CFR 92.551 and 552.

11. Method of Payment

- A. The City will pay Gresham for actual or anticipated expenses in accordance with the Budget (Exhibit A), upon submission of an itemized statement of expenditures. Final Agreement invoice must be received by PHB on or before **July 5, 2023**.
- B. Substantive changes to the approved budget must be approved in writing by the authorized representatives of both parties, prior to expenditure under new budget categories or amounts. Minor line item adjustments may be approved by Project Managers.
- C. All project set-ups and draw-downs will be processed by the City through IDIS. Gresham will generally be responsible for preparing necessary forms for project set-up, project drawdown, and project completion. The City will process these forms. If the City finds that the transaction cannot be processed, the City will return the documents to Gresham for correction. The City shall provide technical assistance to assist with compliance with this section.
- D. All funds received by Gresham must be disbursed within 15 days of receipt.
- E. All program income generated from HOME funded activities will be returned by Gresham to the Local HOME Account maintained by the City. Program income attributable to Gresham activities will be reallocated to Gresham for eligible HOME activities pursuant to the HOME Consortium Agreement.

12. Reporting

Gresham shall provide such reports and other information as may be required by the City from time to time. These reports shall be in the format and meet the timelines determined by the City. Reports or other information may be required as necessary for the City to track compliance with all federal regulations of the HOME Program, to provide required information to the U.S. Department of Housing and Urban Development, and to make such internal reports as may be required by the City.

Each HOME funded activity that is administered by the City of Gresham will require a set-up and a close out form submitted to the City in order to be tracked in IDIS. Rental housing development activities will require Gresham to provide an annual update until the project is completed, occupied, and demographic data is provided to close out the activity in IDIS.

Gresham will provide the following additional annual reports using the forms attached to this IGA (Exhibit B).

- HOME Minority and Women Business Outreach

- Program Income

13. Monitoring and Audits

The City will monitor performance under this IGA during the period of the IGA and during the period of affordability for each project funded under the IGA. Monitoring will include a review of written records, reports, and may include site visits to projects. Monitoring reports will be prepared and provided to Gresham noting any deficiencies and required corrective actions.

14. The U.S. Department of Housing and Urban Development may also conduct monitoring or audits of projects funded under this IGA. Should HUD make any findings that require the re-payment of funds to HUD, Gresham will repay such funds to the City for transmittal to HUD.

15. General Contract Provisions. The General Contract provisions are set forth in Exhibit C.

Signatures on next page

CITY OF GRESHAM

CITY OF PORTLAND

DO NOT EXECUTE

DO NOT EXECUTE

Eric Schmidt, Assistant City Manager

Molly Rogers, Interim PHB Director

Date

Date

APPROVED AS TO FORM:

APPROVED AS TO FORM:

DO NOT EXECUTE

DO NOT EXECUTE

City Attorney or Designee

Office of the City Attorney

Date

Date

EXHIBIT A
City of Gresham FY 22-23 HOME IGA
BUDGET

| | |
|--|--------------------|
| 2022-2023 Gresham HOME Entitlement Award | \$657,372 |
| 2022-2023 Multnomah County HOME Entitlement Award | \$152,294 |
| Program Income | \$59,228 |
| | |
| | |
| 2021-2022 HOME Carryover | \$809,666 |
| Remaining Shared Appreciation Mortgage (\$413,586) | |
| Remaining Homebuyer Assistance- Proud Ground (\$101,500) | |
| Remaining Human Solutions TBRA (\$143,801) | |
| Remaining Gresham HOME Admin (\$0) | |
| | |
| Total Gresham Resources | \$1,527,781 |
| | |
| <i>HOME Administered by Gresham (in IGA)</i> | |
| Homebuyer Assistance - Proud Ground | \$285,000 |
| Shared Appreciation Mortgage (SAM) | \$350,000 |
| Development Fund | \$805,892 |
| 21-22 Admin Carryover | \$0 |
| Gresham Administration | \$47,789 |
| Total Gresham IGA | \$1,479,992 |
| | |
| <i>HOME Administered by City (not included in IGA)</i> | |
| Portland HOME Consortium Administrative Costs | \$39,100 |
| Total Administered by Portland | \$39,100 |
| Total IGA | \$1,527,781 |

EXHIBIT B

HOME MWESB CONTRACTOR INFORMATION
Reporting Period: July 1, 2022 – June 30, 2023

Please complete this form for each HOME-funded Project that was completed during the reporting period.

Include information about all contracts involved in the development of the project

Person Completing This Form and Phone Number: _____

Project Name: _____

Project Address: _____

| Contractor (check if Sub) Name and Phone Number | <u>Sub</u> ✓ | IGA Amount \$ | Complete for each contract and subcontract on this project based upon the status of the business enterprise (whether it is minority or women owned) | | |
|--|-----------------|---------------------|---|--|-----------------|
| | | | <u>MBE</u> ✓ | <u>Race/Ethnicity of Owner</u> (Alaska Native or Native American, Asian or Pac. Islander, Black Non-Hispanic, Hispanic, White Non-Hispanic) | <u>WBE</u> ✓ |
| | | | | | |
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| | | | | | |

EXHIBIT C

GENERAL TERMS AND CONDITIONS FOR SUBRECIPIENT CONTRACTS

1. The following general terms and conditions (the “Terms and Conditions”) apply to all Portland Housing Bureau’s (“PHB’s”) Subrecipient Contracts (the “Contract”). In the event that the Contract contains a provision that conflicts with a provision of the Terms and Conditions, the more restrictive provision will apply.

REPRESENTATIONS AND WARRANTIES

2. Subrecipient represents and warrants to PHB as follows:
 - A. **Authority.** Subrecipient has full power, authority, and legal right to execute and deliver the Contract and to incur and perform its obligations hereunder. The execution and performance by Subrecipient of the Contract has been duly authorized by all necessary action of Subrecipient.
 - B. **No Violations or Default.** No event has occurred, and no condition exists with respect to Subrecipient that constitutes an Event of Default. Each of the following is an “Event of Default”:
 - i. **Breach.** If Subrecipient breaches a material provision of the Contract, whether by action or inaction, and such breach continues and is not remedied within thirty (30) days after Subrecipient receives written notice from PHB specifying the breach;
 - ii. **Assignment.** If Subrecipient makes an assignment for the benefit of creditors, or is adjudicated a bankrupt, or has a receiver, trustee or creditor’s committee appointed over it that is not removed within one hundred eighty (180) days after appointment;
 - iii. **Failure to Disclose; Misrepresentation.** Subrecipient’s failure to disclose any material fact related to the Contract or upon discovery by PHB of any misrepresentations by, on behalf of, or for the benefit of, Subrecipient; or
 - iv. **Misuse of Funds.** It shall also be an Event of Default under the Contract, if Subrecipient uses any portion of the funds in a manner inconsistent with the Contract.
 - C. **Litigation.** No action, suit or proceeding is pending against Subrecipient before any court or administrative agency, that purports to affect the legality, enforceability, or validity of the Contract; or
 - D. **Compliance with Laws.** Subrecipient is in material compliance with all federal, state and local laws, rules, regulations, ordinances and orders applicable to it. Any violation of such laws, rules, regulations, ordinances or orders shall constitute an Event of Default by Subrecipient.

AFFIRMATIVE COVENANTS

3. Subrecipient covenants and agrees as follows:
 - A. **Performance of the Work.** Subrecipient shall perform the work in an expeditious and continuous manner in compliance with all federal, state and local laws, rules, regulations, ordinances and orders pertaining to or regulating the activities to be performed pursuant to the Contract, including those hereinafter adopted, including, but not limited to, the following:
 - i. Contract Administration (24 CFR 570.502(b)). Subrecipient shall comply with the

applicable provisions of the Code of Federal Regulations, 2 CFR 200 as concerns contract administration (2 CFR Subparts A, B, and C), administrative processes (2 FR 200 Subpart D), and cost principles (2 CFR Subpart E). All Subrecipients shall remain compliant with audit principles outlined in 2 CFR 200 Subpart F.

If Subrecipient is a 501(c)(3) organization, Subrecipient shall maintain its nonprofit and tax exempt status during this Agreement.

- ii. **DRUG-FREE WORKPLACE ACT OF 1998.** Subrecipient shall maintain a drug-free workplace in accordance with the requirements of the Drug-Free Workplace Act of 1998 and in accordance with requirements of 2 CFT Part 2429;
 - iii. Subrecipient shall also comply with the provisions of 24 CFR 84.42 and/or 85.36(b)(3), which require that a written Code of Standards of Conduct be maintained by the Subrecipient, as it relates to the performance of employees engaged in the award and administration of contracts.
- B. Changes in Anticipated Services.** If, for any reason, Subrecipient's anticipated services or actions are terminated, discontinued or interrupted, PHB's payment of funds may be terminated, suspended or reduced. Subrecipient shall immediately refund to PHB any unexpended funds received by Subrecipient.
- C. Non-Discrimination; Civil Rights.** During the term of the Contract, Subrecipient shall comply with the following:
- i. The non-discrimination provisions of Title VI of the Civil Rights Act of 1964 (24 CFR 1), the Fair Housing Act (24 CFR 100), and Executive Order 11063 (24 CFR 107);
 - ii. Prohibitions against discrimination on the basis of age under Section 109 of the Act as well as the Age Discrimination Act of 1975 (24 CFR 146), and the prohibitions against discrimination against otherwise qualified individuals with handicaps under Section 109 as well as section 504 of the Rehabilitation Act of 1973 (24 CFR 8);
 - iii. The equal employment and affirmative action requirements of Executive Order 11246, as amended by Order 12086 (41 CFR 60);
 - iv. The equal employment and non-discrimination requirements of Portland City Code Sections 3.100.005 (City Policies Relating to Equal Employment Opportunity, Affirmative Action and Civil Rights), 3.100.042 (Certification of Contractors), and Chapter 23 – Civil Rights;
 - v. The Americans with Disabilities Act (42 USC 12131, 47 USC 155, 201, 218 and 225), which provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodation, state and local government services and telecommunications. The Act also requires the removal of architectural and communication barriers that are structural in nature in existing facilities. For CDBG and/or HOME funded projects, the Subrecipient will also comply with affirmative marketing policy and outreach to minorities and women and to entities owned by minorities and women in accordance with 24 CFR 92.351 and/or 24 CFR 570.601(a)(2), if the funds will be used for housing containing five (5) or more assisted units.
- D. Required Provisions.** The following provisions shall be complied with and shall be included such in each subcontract, including procurements of materials and leases of equipment, unless otherwise exempt:
- i. **Non-discrimination.** Subrecipient, with regard to the work performed by it during the

Contract, shall not discriminate on the grounds of race, color, national origin, sex, sexual orientation, age, religion, disability, marital status, or family relationships in the selection and retention of Subrecipients, including procurements of materials and leases of equipment. Subrecipient shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices for a program set forth in Appendix B of the Regulations.

- ii. **Solicitations for Subcontractor, Including Procurements of Materials and Equipment.** In all solicitations either by competitive bidding or negotiation made by Subrecipient for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential Subcontractor or supplier shall be notified by Subrecipient of Subrecipient's obligations under the Contract and the Regulations relative to non-discrimination on the grounds of race, color, national origin, sex, sexual orientation, age, religion, disability, marital status, or family relationships.
- iii. **Information and Reports.** Subrecipient shall provide all information and reports required, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by PHB or any state or federal agency to be pertinent to ascertain compliance with orders and instructions. Where any information required of a Subrecipient is in the exclusive possession of another who fails or refuses to furnish this information, Subrecipient shall so certify to PHB or any state or federal agency as appropriate, and shall set forth what efforts it has made to obtain the information.
- iv. **Records and Inspection.** Subrecipient shall keep proper books of account and records on all activities associated with the Contract (collectively, the "Records"). Subrecipient shall maintain the Records in accordance with generally accepted accounting principles and shall retain the Records for (5) five years after PHB makes final payments and all other pending matters are closed. Subrecipient shall permit PHB, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, to inspect, review and make excerpts and transcripts of the Records with respect to the receipt and disbursement of funds received hereunder. The authorized representatives shall have access to the Records at any reasonable time for as long as the Records are maintained. This Section shall survive the expiration of the term and any termination of the Contract and upon such termination Subrecipient shall promptly transfer all Records to PHB.
- v. **Audits.** PHB, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, may at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by Subrecipient within thirty (30) days after receipt by Subrecipient. Failure of Subrecipient to comply with the above audit requirements will constitute a violation of the Contract and may result in the withholding of future payments. Subrecipient hereby agrees to have an annual agency audit conducted in accordance with City policy and 2 CFR Part 200.
- vi. **Political Activity.** Subrecipient shall not permit any of the funds, materials, property or services provided under the Contract to be used for any partisan political activity, or to further the election or defeat of any candidate for public office, or for publicity or propaganda purposes designed to support or defeat legislation pending before the United States Congress, the State of Oregon, the County of Multnomah or the City of Portland.
- vii. **City Recognition.** Subrecipient shall insure recognition of the role of PHB in providing services through the Contract. All activities, facilities and items utilized pursuant to the Contract shall be prominently labeled as to funding source. In addition, Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under the Contract.

- viii. **Indemnification.** Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, Subrecipient shall hold harmless, defend, and indemnify PHB, the City of Portland, and its officers, agents and employees against all claims, demands, actions, and suits (including all attorney fees and costs) brought against any of them arising from actions or omissions of Subrecipient and/or its contractors in the performance of the Contract. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, City shall hold harmless, defend, and indemnify Gresham, and its officers, agents and employees against all claims, demands, actions, and suits (including all attorney fees and costs) brought against any of them arising from actions or omissions of City and/or its contractors in the performance of the Contract. This duty shall survive the expiration or termination of the Contract.
- ix. **Insurance.** Subrecipient shall obtain and maintain in full force at its expense, throughout the term of the Contract and any extension periods, the required insurance identified below. PHB reserves the right to require additional insurance coverage as may be required by statutory changes during the term.
- a. **Workers' Compensation Insurance.** Subrecipient, its contractors and all employers working under the Contract shall comply with ORS Chapter 656 and as it may be amended from time to time. Unless exempt under ORS Chapter 656, Subrecipient, its contractors and any employers working under the Contract shall maintain coverage for all subject workers.
- b. **Commercial General Liability Insurance:** Subrecipient shall have commercial general liability insurance covering bodily injury, personal injury, property damage, including coverage for independent contractor's protection (required if any work will be subcontracted), premises/operations, contractual liability, products and completed operations, in a per occurrence limit of not less than \$1,000,000, and aggregate limit of not less than \$2,000,000.
- c. **Automobile Liability Insurance:** Subrecipient shall have automobile liability insurance with coverage of not less than \$1,000,000 each accident. The insurance shall include coverage for any auto or all owned, scheduled, hired and non-owned auto. This coverage may be combined with the commercial general liability insurance policy.
- d. **Additional Insured:** The liability insurance coverages, except Professional Liability, Errors and Omissions, or Workers' Compensation where applicable, shall be without prejudice to coverage otherwise existing, and shall name the City of Portland and its bureaus/divisions, officers, agents and employees as Additional Insureds, with respect to the Subrecipient's or its contractor's activities to be performed or services to be provided. Coverage shall be primary and non-contributory with any other insurance and self-insurance. Notwithstanding the naming of additional insureds, the insurance shall protect each additional insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured.
- e. **Continuous Coverage; Notice of Cancellation:** Subrecipient shall maintain continuous, uninterrupted coverage for the duration of the Contract. There shall be no termination, cancellation, material change, potential exhaustion of aggregate limits or nonrenewal of coverage without thirty (30) days written notice from Subrecipient to PHB. If the insurance is canceled or terminated prior to termination of the Contract,

Subrecipient shall immediately notify PHB and provide a new policy with the same terms. Any failure to comply with this clause shall constitute a material breach of the Contract and shall be grounds for immediate termination of the Contract.

- f. Gresham shall not be required to show proof of the above insurance coverage.

RIGHTS AND REMEDIES UPON EVENT OF DEFAULT; TERMINATION

4. **Rights and Remedies.** Upon the occurrence of an Event of Default and at any time thereafter, PHB may, at its option, exercise any one or more of the following rights and remedies:
- A. **Termination for Cause.** Upon the occurrence of an Event of Default and at any time thereafter, PHB may terminate the Contract for cause.
- B. **Enforcement.** In the event that the Contract is terminated for cause, PHB may take one or more of the following actions:
- i. **Repayment.** PHB may declare any funds disbursed to Subrecipient, to be immediately due and payable in full. To the extent that the Event of Default is in connection with the misuse of funds, PHB may declare any misused funds and to be immediately due and payable in full and, upon such declaration, Subrecipient shall pay to PHB the amount declared to be immediately due and payable. In addition, Subrecipient shall be required to provide all finished or unfinished documents, data, studies, and reports prepared by Subrecipient;
 - ii. **Termination of Funding Obligation.** PHB may terminate PHB's obligation to disburse additional funds to Subrecipient; and
 - iii. **Other Legal Remedies.** PHB shall have any other right or remedy available at law, in equity, or otherwise in such order and manner as it may select.
- C. **Completion of the Work.** In addition, if the Contract is terminated for cause, PHB may complete the work either itself or by agreement with another subrecipient, or by a combination thereof. In the event the cost of completing the work exceeds the amount actually paid to Subrecipient hereunder plus the remaining unpaid balance of the compensation provided herein, then Subrecipient shall pay to PHB the amount of excess. Allowable costs shall be determined in accordance with 24 CFR 85.43(c).
- D. **Termination for Convenience.** PHB may, in accordance with 24 CFR 85.44, terminate the Contract for convenience.

MISCELLANEOUS

5. **Subcontracting.** If Subrecipient utilizes contractors to complete its work under the Contract, in whole or in part, Subrecipient shall require any of its contractors to agree, as to the portion contracted, to fulfill all obligations of the Contract as specified herein. However, Subrecipient shall remain obligated for full performance hereunder, and PHB shall incur no obligation other than its obligations to Subrecipient hereunder.
6. **Written Agreement.** If Subrecipient provides CDBG or HOME funds to for-profit owners or developers, non-profit owners or developers, subrecipients, homeowners, homebuyers, tenants receiving tenant-based rental assistance or contractors, Subrecipient must have a written agreement that meets the requirements of 24 CFR 570.503(b) or 92.504(c), respectively.
7. **Independent Contractor Status.** Subrecipient, and its contractors and employees are not employees of the City and are not eligible for any benefits through the City, including without

limitation, federal social security, health benefits, workers' compensation, unemployment compensation, and retirement benefits.

8. **Conflict of Interest.** No City officer or employee, during his or her tenure or for two (2) year thereafter, shall have any interest, direct or indirect, in the Contract or the proceeds thereof. Any City officer or employee that selected Subrecipient, participated in the award of the Contract or managed the Contract shall not seek the promise of employment from Subrecipient or be employed by Subrecipient during the term of the Contract, unless a written waiver is obtained from the City.
9. **Amendment/Changes.** PHB or Subrecipient may, from time to time, request changes in writing in the scope of services or terms and conditions hereunder. Such changes, including any increase or decrease in the amount of Subrecipient's compensation, shall be incorporated in written amendments to the Contract. The Bureau Director is authorized to approve funding amendments up to 25% of the original budget amount of any contract covered under the ordinance.
10. **Copyright.** If the Contract results in any copyrightable material or inventions, PHB reserves the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, the work or materials for governmental purposes.
11. **Modification; Prior Agreements; Headings.** The Contract may not be modified or amended except by an instrument in writing signed by the parties. The Contract reflects and sets forth the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes all prior agreements and understandings relating to such subject matter. The headings in the Contract are for the purpose of reference only and shall not limit or otherwise affect any of the terms hereof.
12. **Successors and Assigns.** Subrecipient may not assign the Contract, in whole or in part, without the prior written consent of PHB. The Contract shall be binding upon and shall inure to the benefit of the parties and their respective permitted successors and assigns.
13. **Governing Law, Jurisdiction, Venue.** The Contract shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to its conflicts of law principles. Any legal action regarding the Contract must be brought and conducted in the federal or state court, as appropriate, serving Multnomah County, Oregon, and the parties hereby consent to the jurisdiction and venue of such courts.
14. **Validity; Severability.** If any provision of the Contract is held to be invalid, such event shall not affect, in any respect whatsoever, the validity of the remainder of the Contract, and the remainder shall be construed without the invalid provision so as to carry out the intent of the parties to the extent possible without the invalid provision.

HOME INVESTMENT PARTNERSHIP TERMS AND CONDITIONS CFDA# 14.239

This document must have the City's provision attached in order to be a complete document.

GENERAL COMPLIANCE. The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 92 (the U.S. Housing and Urban Development regulations concerning HOME Investment Partnership (HOME) Program revised 2013) including all cross-cutting Federal regulations found in Subpart H of the HOME Rule including environmental review except that (1) the Subrecipient does not assume the recipient's environmental responsibility of review described in 24 CFR 92.352(b). The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. Subrecipient also must comply with all the general cost principles and administrative program regulations in 2 CFR 200 parts D and E, as

well as the award and sub-award contracting regulations in part C and, starting in the 2016 fiscal year, the audit requirements of part F.

VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013.

The Violence Against Women Reauthorization Act of 2013, public law 113-4, ([VAWA 2013](#)) to HUD programs. VAWA protects both child and adult victims of domestic violence, dating violence, sexual assault, and stalking. The legislation, S.47, extends the law's protections to lesbian, gay, bisexual and transgendered men and women and to non-native perpetrators of violence on Native American reservations.

RELOCATION, ACQUISITION AND DISPLACEMENT. The Subrecipient agrees to comply with 24 CFR 92.353 relating to the acquisition and disposition of all real property utilizing grant funds, and to the displacement of persons, businesses, non-profit organizations and farms occurring as a direct result of any acquisition of real property utilizing grant funds. The Subrecipient agrees to comply with applicable HUD ordinances, resolutions and policies concerning displacement of individuals from their residences.

TENANT BASED RENTAL ASSISTANCE HOME. The Subrecipient agrees to carry out the requirements of the HOME TRBA program when funding such activities. Executed, written agreements must be entered into that contain the requirements of the HOME TBRA program. Those specific requirements which are not listed in the provisions of this IGA can be found at 24 CFR Section 92.209.

LEAD-BASED PAINT. The Subrecipient agrees that any construction or rehabilitation of residential structure with assistance provided under this contract shall be subject to HUD lead-Based Paint Regulations at 24 CFR 92.355, the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 USC 451-4856, and 24 CFR Part 35, and in particular Sub-Parts A, B, J, K, M and R thereof. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants or properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning

LABOR STANDARDS. The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours, the Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C 276, 327-333) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Subrecipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City of Portland for review upon request.

The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property designed for residential use for less than twelve (12) households, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair of any building or work financed in whole or in part with assistance provided under this contract, shall comply with federal requirements adopted by the City of Portland pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR, Parts 3, 15 and 7 governing the payment of wages and ratio of apprentices and trainees to journeymen; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph, for such contracts in excess of \$100,000.

CONSULTANT SERVICES. No person providing consultant services in an employer-employee type relationship shall receive more than a reasonable rate of compensation for personal services paid with HOME funds. In no event, however, shall such compensation exceed the limits in effect under the provision of any applicable statute. Such services shall be evidenced by written agreements between parties which detail the responsibilities, standards and compensation. Consultant services provided under an independent contractor relationship are not subject to the compensation limitation of Level IV of

the Executive Schedule (24 CFR 92.358).

DISBURSEMENT OF FUNDS. The Subrecipient may not request disbursement of HOME funds under this contract until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before Subrecipient requests funds from the CITY.

ENVIRONMENTAL REVIEW. Subrecipient must comply with the requirements of the National Environmental Policy Act of 1959 [24 CFR Part 58]. No funds may be committed, and no work may be carried out on any project until the environmental review is complete, and a Release of Funds is issued by HUD, if applicable

DEBARRED, SUSPENDED OR INELIGIBLE CONTRACTORS. Federal funds may not be used to directly or indirectly employ, award contracts to or otherwise engage the services of any contractor or subrecipient during any period of debarment, suspension or placement of ineligibility status [24 CFR Part 24]. Contractors and subrecipients are responsible for checking the Federal publications that list debarred, suspended and ineligible contractors to assure compliance.

SMALL AND MINORITY FIRMS, WOMEN’S BUSINESS ENTERPRISES AND LABOR SURPLUS AREA FIRMS. Contractors and subrecipients must comply with the requirements of Executive Orders 11625, 12432 and 12138 and 24 CFR 85.36(e), which require that contractors and subrecipients take all necessary affirmative steps to assure that minority firms, women’s business enterprises, and labor surplus area firms are used when possible. Such affirmative steps would include: (i) placing qualified small and women’s business enterprises on solicitation lists; (ii) assuring that small and minority businesses and women’s business enterprises are solicited whenever they are potential sources; (iii) dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises; (iv) establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women’s business enterprises; (v) using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and (vi) requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.

SECTION 3: The Subrecipient will comply with the training and employment guidelines of Section 3 of the Housing and Urban Development Act of 1968, as amended (12U.S.C. 1701a), and regulations pursuant thereto (24 CFR Part 135).

PERIODS OF AFFORDABILTY (Homeownership). The HOME-assisted housing (Homeownership Unit) must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after the transfer of the property to the HOME–assisted buyer. The homeowner must occupy the principal resident throughout the HOME period of affordability.

| Homeownership HOME amount per-unit | Minimum Period of Affordability in years |
|------------------------------------|--|
| Under \$15,000 | 5 |
| \$15,000 to \$40,000 | 10 |
| Over \$40,000 | 15 |

Occupying. Occupying means the real property receiving HOME/ADDI/CDBG is the principal residence, the place the homeowner intends to return to whenever the homeowner goes away. It is the address that appears on the homeowner’s driver’s license or voter registration card. Homeowner may have only one principal residence at a time.

PERIODS OF AFFORDABILTY (Rental Housing). The HOME assisted units must meet the affordability requirements for not less than the applicable period specified in the table below, beginning after project

completion as defined at 24 CFR 92.2 *Project Completion*

| RENTAL HOUSING ACTIVITY | MINIMUM PERIOD OF AFFORDABILITY IN YEARS |
|---|---|
| Rehabilitation or acquisition of existing housing per unit amount of HOME funds: Under \$15,000 | 5 YEARS |
| \$15,000 to \$40,000 | 10 YEARS |
| Over \$40,000 or rehabilitation involving refinance | 15 YEARS |
| New construction or acquisition - newly constructed housing | 20 YEARS |

THE FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) requires sub-recipients with federal award over \$30,000 to register in the System for Award Management (SAM). Registration information for SAM can be found at: <https://sam.gov/content/home>.

AFFIRMATIVE MARKETING PROGRAM (AFHMP). The marketing for the program will be done in accordance with the Affirmative Marketing requirements in 24 CFR 92.351. Records shall be maintained of the efforts made to market projects which contain five (5) or more HOME assisted units Pursuant to the above regulation, PHB has adopted HUD’s AFHMP template at: <http://portal.hud.gov/hudportal/documents/huddoc?id=935-2a.pdf>

FEES. The charging of fees is prohibited under the HOME Rule. The Subrecipient and/or associated community housing development organizations may not charge for origination fees, or other fees for the costs of administering the HOME program, except as permitted by Section 92.214(b)(1)

REVERSION OF ASSETS. Upon expiration of the contract, the Subrecipient must transfer to the CITY any HOME funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME funds [92.504(c)(2)(vii)].