

**MONTANA DEPARTMENT OF COMMERCE  
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM  
CONTRACT #MT-CDBG-CV-22-08**

This agreement ("Contract") is entered into by the City of Missoula (UEI NBMKDLVHBMF1), Montana ("Grantee") and the Montana Department of Commerce ("Department").

The Grantee and the Department hereby agree to the following terms:

**Section 1. PURPOSE**

The purpose of this Contract is to provide funding to the Grantee for activities approved by the Department under the Community Development Block Grant Program ("CDBG" or "Program").

**Section 2. AUTHORITY**

This Contract is issued under authority of Title 90, Chapter 1, Part 1 of the Montana Code Annotated ("MCA") and Title 8, Chapter 94, Subchapter 37 of the Administrative Rules of Montana ("ARM").

**Section 3. APPLICATION INCORPORATED BY REFERENCE**

The Grantee's application for Program assistance, including any written modifications or reports resulting from the review of the application by the Department (collectively "Project"), is specifically incorporated into this Contract by reference and the representations made herein are binding upon the Grantee.

**Section 4. ACCEPTANCE OF PROGRAM REQUIREMENTS**

- (a) The Grantee will comply with all applicable parts of the Housing and Community Development Act of 1974, as amended by the CARES Act, 42 U.S.C. §§ 5301, *et seq.*; the applicable Department of Housing and Urban Development (HUD) regulations, include but are not limited to, 24 CFR Part 570 and Form HUD-4010, as now in effect or as amended during the term of this Contract. The Grantee will comply with all applicable local, state, and federal laws as well as all applicable regulations, ordinances, and resolutions now in effect or as may be amended during the term of this Contract. Grantee will comply with all administrative directives and procedures that may be established or amended by the Department for the Program, including the most current version of the *CDBG/NSP Grant Administration Manual* and *CDBG Application & Guidelines for Affordable Housing Development and Rehabilitation, Community and Public Facilities, and Economic Development Grants*, as amended.

- (b) The Grantee agrees that all contracts and subcontracts entered into for the completion of the activities described in Section 6 will require such contractors, subcontractors, and subrecipient entities to also comply with all requirements placed on the Grantee in paragraph (a) of this Section.
- (c) The Grantee agrees to repay to the Department any funds advanced under this Contract that the Grantee, its contractors, subcontractors, or subrecipient entities, or any public or private agent or agency to which it delegates authority to carry out portions of this Contract, expends in violation of the terms of this Contract, the statutes, and regulations governing the Program or any applicable local, state, or federal requirements.
- (d) The Grantee agrees that the Project will adhere to all applicable design standards required by the Department of Environmental Quality (DEQ) and obtain all applicable federal, state, and local permits required for the Project. If no DEQ standards are applicable to the Project, the Grantee agrees that the Project will adhere to generally accepted industry standards, such as *Recommended Standards for Wastewater Facilities* or *Recommended Standards for Water Works*, published by the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, latest edition.

## **Section 5. EFFECTIVE DATE AND TIME OF PERFORMANCE**

- (a) This Contract shall take effect upon execution by the parties and will terminate on June 30, 2023 or upon approval of Grantee's Project completion report by the Department, whichever is later, unless otherwise terminated in accordance with this Contract.
- (b) All authorized expenses to be reimbursed must be incurred by the Grantee between January 21, 2020 and March 31, 2023. All requests for reimbursement must be submitted to the Department within ninety (90) days after March 31, 2023.
- (c) The activities to be performed by the Grantee will be completed according to the implementation schedule set forth in Exhibit A. The Grantee may modify the implementation schedule set forth in Exhibit A only with prior written approval of the Department.
- (d) The Department may grant an extension to this Contract upon request by the Grantee if the Department determines, in its sole discretion, that the Grantee has demonstrated progress toward completion of the Project, has engaged in a good faith effort to comply with the duties, terms, and conditions of this Contract, and that the failure to comply with any of those services, duties, terms, or conditions

resulted from circumstances beyond the Grantee's control. A written request for an extension must be submitted at least sixty (60) days prior to June 30, 2023.

## **Section 6. SCOPE OF WORK**

The Grantee will complete the Project and administer this Contract as set forth in the Grantee's application for Program assistance, including any amendments, approved by the Department. The Grantee will use Program funds to meet the CDBG Low and Moderate Income National Objective and the CDBG-CV requirement to prevent, prepare for, and respond to coronavirus for the following major components of the Project:

- Acquisition of the Old Hellgate Village Mobile Home Court to form a resident owned community that will preserve existing affordable housing for those most vulnerable to COVID-19 to prevent future displacement of residents.
- Limited administration of this Contract pursuant to the most current version of the *CDBG Application & Guidelines for Affordable Housing Development and Rehabilitation, Community and Public Facilities, and Economic Development Grants*, as amended.

## **Section 7. BUDGET**

- (a) The total amount to be awarded to the Grantee under this Contract shall not exceed \$850,000.00.
- (b) A copy of the Project budget is attached as Exhibit B and specifically incorporated herein by this reference. Any changes to the budget as proposed and incorporated within this Contract require a written request to and approval by the Department.
- (c) For cumulative budget adjustments of \$5,000 or less between line items of the Program portion of Exhibit B, Department approval of the Request for Reimbursement form will constitute approval of the budget adjustment. The Grantee shall describe the rationale for a budget adjustment in the Project Progress Report and note the adjustments in the Request for Reimbursement and Status of Funds Report submitted to the Department. Budget adjustments in excess of \$5,000 between any line item of Exhibit B must be approved in advance by the Department.
- (d) Any authorized funds not obligated on or before the later date referenced in Section 5(b) or otherwise accounted for in accordance with the provisions of this Section will revert to the Department and will be expended to finance other Program projects.

## **Section 8. ACCESS TO AND RETENTION OF RECORDS**

- (a) The Grantee agrees to create and maintain records supporting the services covered by this Contract, including but not limited to, financial records, supporting documents, and such other records as are required by law or other authority, for a period of five (5) years after either the termination date of the Contract or the conclusion of any claim, litigation, or exception relating to the Contract taken by the State of Montana or third party, whichever is later. These records will be kept in the Grantee's offices in Missoula, Montana.
- (b) The Grantee shall provide the Department, HUD, Comptroller General of the United States, Montana Legislative Auditor, or their authorized agents access to any records necessary to determine contract compliance.
- (c) The Grantee agrees to include in first-tier subcontracts under this Contract a clause substantially similar to Section 8, subsections (a) and (b).

## **Section 9. LIAISONS**

All project management and coordination on behalf of the Department shall be through a single point of contact designated as the Department's liaison. Grantee shall designate a liaison that will provide the single point of contact for management and coordination of Grantee's work. All work performed pursuant to this Contract shall be coordinated between the Department's liaison and the Grantee's liaison. The liaisons for this Contract are:

**For the Department:**  
**Chandler Rowling (or successor)**  
**Program Specialist, MDOC**  
**301 S. Park Ave.**  
**P.O. Box 200523**  
**Helena, MT 59620-0523**  
**406-841-2544**  
**[Chandler.Rowling@mt.gov](mailto:Chandler.Rowling@mt.gov)**

**For the Grantee:**  
**Tracy Pohndorf (or successor)**  
**ARPA Grants Administrator**  
**City of Missoula**  
**435 Ryman St.**  
**Missoula, MT 59802**  
**406-552-6651**  
**[pohndorft@ci.missoula.mt.us](mailto:pohndorft@ci.missoula.mt.us)**

## **Section 10. SPECIAL CONTRACT CONDITIONS**

- (a) If the Grantee has not completed all special contract conditions by September 1, 2022, this Contract may be terminated by the Department. The Grantee will not obligate or use Program funds for any Project activities until:
  - (i) The Grantee completes an Environmental Review Record in accordance with 24 CFR part 58 and submits a copy to the Department.
  - (ii) The Grantee completes the civil rights activities described in Chapter 5 "Civil

Rights," of the current version of the Department's *CDBG/NSP Grant Administration Manual*. The Department may, in its sole discretion, defer certain elements of this requirement.

- (iii) Other conditions, as needed, including the Signature Certification and Designation of Depository Form.
  - (iv) For any projects or portions thereof that the Grantee intends to contract or subcontract to a third party, the Grantee must submit to the Department an acceptable interlocal/subrecipient agreement executed between the parties.
  - (v) The Grantee must submit to the Department evidence of the firm commitment of the other financial resources necessary for the completion of the Project as defined in Section 3 and Exhibit B. If there are any changes to the Project Management Plan, Implementation Schedule, or Budget during the administration of the Project, the Grantee must submit an updated version for approval to the Department.
- (b) The Grantee must complete all necessary arrangements to ensure that the other financial resources necessary for Project completion are available for commitment and participation by September 1, 2022 in order to guarantee timely Project completion. If the Grantee fails to secure the commitment of all other financial resources for the Project within this timeline, the Department will withdraw the tentative award and reallocate the funds, unless the Grantee can demonstrate the existence of unusual or extenuating circumstances that justify an extension of time.

## **Section 11. METHOD OF REIMBURSEMENT**

- (a) The Department will use Program funds to fund Program activities that have received a notice of award letter from the Department. Grantee acknowledges that its access to Program funds is subject to their availability.
- (b) The Department agrees that, if and when the funds described in paragraph (a) of this Section are available, the Department will authorize the Grantee to request reimbursement from funding awarded for the Project. In drawing against the reserved amount, the Grantee will follow the instructions supplied by the Department.
- (c) The Department agrees to reimburse the Grantee for eligible Project costs incurred on or after the date identified in Section 5(b) upon the successful completion of activities set forth in Section 6. All reimbursements must be supported by adequate documentation provided by the Grantee and require Department approval of the Grantee's request for reimbursement. In requesting reimbursement, the Grantee

will follow the instructions supplied by the Department. Unless previously agreed to in writing by the Department, the Department will not reimburse Grantee for any costs related to land acquisition, construction, construction inspection, or contingency line items in Exhibit B until Grantee documents that all applicable permits for the project have been obtained, as required in Section 4(c).

- (d) The Department will not reimburse the Grantee for any costs incurred prior to the date identified in Section 5(b), any expenses not included in Exhibit B or an approved adjustment thereto, any ineligible expenses as set forth in the most current version of the *CDBG Application & Guidelines for Housing, Public Facilities, and Economic Development Planning Grants*, as amended, and the *CDBG/NSP Grant Administration Manual*, or any expenses not adequately supported by the Grantee's records. Reimbursement for any Project expenses incurred is contingent on the Grantee's successful completion of Section 10.
- (e) As set forth in Section 17, if the Grantee fails to or is unable to comply with any of the terms and conditions of this Contract any costs incurred will be the Grantee's sole responsibility.
- (f) The Department may, at its discretion, withdraw from the Grantee the commitment of any CDBG funds that remain undispersed 24 months after the award date of December 1, 2021.
- (g) The Department is allowed fifteen (15) working days to process a request for reimbursement once adequate supporting documentation has been received by the Department. The Grantee shall provide banking information before or at the time of Contract execution in order to facilitate electronic funds transfer payments.
- (h) If the Grantee changes one of its sources of funding or the cost of the Project increases after the Grantee has obtained the firm commitment of non-Program funds, the Department may, at its discretion, suspend the distribution of Program funds until the Grantee obtains a firm commitment of funds for the full Project budget.
- (i) The Department will withhold two percent (2%) of the total authorized grant award until all tasks outline in Section 6 are completed and approved by the Department and the Grantee's Project completion report is received and approved by the Department. Prior to receipt of the Project completion report, the Department may authorize release of part or all of the withheld amount when situations occur that would result in an undue financial hardship to the Grantee as long as the Grantee has demonstrated effective overall management of the Project and if applicable, satisfactorily managed previous Program projects.

- (j) The Department may reduce the Grantee's amount of Program funds provided by this Contract if actual Project expenses are lower than projected by the Grantee in Exhibit B or the Grantee obtains a greater amount of grant funds from other sources than as presented in the Project application.
- (k) If the Department determines that the Grantee has failed to satisfactorily carry out its responsibilities under this Contract or has breached the terms of this Contract, the Department may withhold reimbursement to the Grantee until such time as the Department and the Grantee agree on a plan to remedy the deficiency.
- (l) Requests for reimbursement for contracted or subcontracted services must include appropriate documentation demonstrating compliance with contract requirements.
- (m) The Grantee may not use monies provided through this Contract as payment for Project costs that are reimbursed from other sources. When applicable, the Grantee's travel expenses, meals, and lodging will be reimbursed at the prevailing state rate at the time such expense is incurred.
- (n) The Department, in its sole discretion, may allow the Grantee to amend Section 6. The Department will review the following: likelihood to expend all grant funds prior to the deadline in Section 5(b); progress toward completion of the Project; good faith effort to comply with any of the duties, terms, and conditions of this Contract; and the failure to comply with any of those services, duties, terms, or conditions resulted from circumstances beyond the Grantee's control. A written request for an amendment to Section 6 must be submitted at least sixty (60) days prior to the termination date of this Contract.
- (o) If any obligations remain as of Project closeout and contract termination, the Department and the Grantee will prepare and execute a Closeout Agreement specifying the conditions and requirements governing the remaining obligations, in accordance with the requirements set forth in 24 CFR § 570.509(c).

## **Section 12. REPORTING REQUIREMENTS**

- (a) Quarterly Update Report: During the term of this Contract, the Grantee will submit a quarterly update report, if requested by the Department. This report shall follow the report format specified in the most recent version of the *CDBG Application & Guidelines for Housing, Public Facilities, and Economic Development Planning Grants*, and must describe the status of the Project with respect to the activities set forth in Section 6, including, at a minimum, the percentage complete, costs incurred, funds remaining, and projected completion date. The report must also

describe any significant problems encountered and any necessary scope, implementation or budget modifications requested.

- (b) Project Progress Reports: During the term of this Contract the Grantee will submit Project progress reports to the Department in conjunction with each request for reimbursement. These reports will describe the status of the activities set forth in Section 6, including, at a minimum, the percentage completed, costs incurred, funds remaining, and projected completion date. Additionally, the report must provide documentation supporting each claim for expenses to be reimbursed, describe any significant problems encountered in carrying out the Project, and the scope of any necessary modifications the Grantee is requesting in the Project scope of work, budget, or implementation schedule. The Department, at its sole discretion, may decline to honor any request for reimbursement if the required project progress report has not been submitted to or approved by the Department.
- (c) Status of Fund Reporting: During the term of this Contract, the Grantee will submit a Status of Funds Report with any request for funds.
- (d) Project Completion Report: Within 60 days of Project completion, the Grantee will submit a final Project completion report for Department approval. The Project completion report will describe the total costs incurred for the Project, identify the final completion date, and summarize any significant problems encountered in carrying out the Project. Upon approval of the Project completion report, the Department will issue a notice of Project close-out. If the Grantee fails to submit a Project completion report within 60 days, the Department may reallocate any remaining Project funds for other Program activities.

### **Section 13. PROJECT MONITORING**

The Department or any of its authorized agents may monitor and inspect all phases and aspects of the Grantee's performance to determine compliance with Section 6 of this Contract, the proper use of funds, and other technical and administrative requirements of this Contract, including the adequacy of the Grantee's records and accounts. The Department may advise the Grantee of any specific areas of concern and provide the Grantee opportunity to propose corrective actions acceptable to the Department. Failure by the Grantee to proceed with reasonable promptness to take necessary corrective action(s) will be a default. If the Grantee's corrective action(s) remain unacceptable, the Department may terminate this Contract in whole or in part pursuant to Section 18.

### **Section 14. NOTICE**

All notices required under the provisions of this Contract must be in writing and delivered to the parties' liaisons identified herein either by first class mail or personal service.



## **Section 15. REFERENCE TO CONTRACT**

The Contract number must appear on all invoices, reports, and correspondence pertaining to the Contract.

## **Section 16. ASSIGNMENT, TRANSFER AND SUBCONTRACTING**

Grantee may not assign, transfer, or subcontract any portion of this Contract without State's prior written consent. (18-4-141, MCA) Grantee is responsible to State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by Contractor. No contractual relationships exist between any subcontractor and State under this Contract.

## **Section 17. CONTRACT AMENDMENT**

This Contract may not be enlarged, modified, or altered without a written agreement signed by all parties to the Contract.

## **Section 18. TERMINATION OF CONTRACT**

This Contract may be terminated in whole or in part as follows or as otherwise provided in this Contract:

- (a) Termination Due to Loss or Reduction of Funding: The Department, at its sole discretion, may terminate or reduce the scope of this Contract if any funding sources are eliminated or reduced for any reason. If a termination or modification is required, the Department may, if sufficient Program funds are available, compensate the Grantee for eligible services rendered and actual, necessary, and eligible expenses incurred as of the revised termination date. The Department will notify the Grantee of the effective date of the termination or modification of this Contract and, if a reduction in funding is required, provide the Grantee with a modified Project budget.
- (b) Termination for Cause with Notice to Cure Requirement: The Department may terminate this Contract for failure of the Grantee, its contractors, subcontractors, or subrecipient entities to perform or comply with any of the services, duties, terms, or conditions contained in this Contract after giving the Grantee written notice of the stated failure. The written notice will demand performance of the stated failure within a specified period of time not less than thirty (30) days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

- (c) Effect of Termination: In the event of termination due to the Grantee's, its contractors', subcontractors', or subrecipient entities' failure to perform or comply with any of the services, duties, terms, or conditions of this Contract, any costs incurred will be the responsibility of the Grantee. However, at its sole discretion, the Department may approve requests by the Grantee for reimbursement of eligible expenses incurred. The Department's decision to authorize payment of any costs incurred or to recover expended Program funds will be based on a consideration of the extent to which the expenditure of those funds represented a good faith effort of the Grantee to comply with any of those services, duties, terms, or conditions of this Contract, and on whether the failure to comply with any of those services, duties, terms, or conditions resulted from circumstances beyond the Grantee's control.

## **Section 19. COMPLIANCE WITH APPLICABLE LAWS**

Grantee shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Grantee is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. Any subletting or subcontracting by Grantee subjects subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016. Grantee agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

## **Section 20. ACCOUNTING, COST PRINCIPLES, AND AUDITING**

- (a) The Grantee, in accordance with Sections 2-7-503, MCA and other authorities, must maintain for the purposes of this Contract an accounting system of procedures and practices that conforms to Generally Accepted Accounting Principles ("GAAP").
- (b) The Department, any other legally authorized governmental entity, or their authorized agents may, at any time during or after the term of this Contract, conduct in accordance with Sections 2-7-503, 5-13-304, and 18-1-118, MCA and other authorities, audits for the purposes of ensuring the appropriate administration, expenditure of monies, and delivery of services provided through this Contract.

## **Section 21. AVOIDANCE OF CONFLICT OF INTEREST**

- (a) The Grantee will comply with the provisions of applicable HUD regulations (24 CFR § 570.489) and with applicable Sections 2-2-121, 2-2-201, 7-3-4256, 7-3-4367, 7-5-2106, and 7-5-4109, MCA, and any other applicable local, state, or federal law regarding the avoidance of conflict of interest.
- (b) The Grantee agrees that none of its officers, employees, or agents will solicit or accept gratuities, favors, or anything of monetary value from contractors, subcontractors, or potential contractors and subcontractors, who provide or propose to provide services relating to the project funded under this Contract.
- (c) The Grantee shall promptly refer to the Department any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted any false claim or has committed any criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this Contract.

## **Section 22. COMPLIANCE WITH WORKERS' COMPENSATION ACT**

Grantees are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with Sections 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither the Grantee nor its employees are employees of the State. This insurance/exemption must be valid for the entire term of the Contract. Proof of compliance and renewal documents must be sent to the Department within thirty (30) days of Contract execution.

## **Section 23. OWNERSHIP AND PUBLICATION OF MATERIALS**

- (a) All reports, information, data, and other materials prepared by the Grantee or any of its contractors or subcontractors in furtherance of this Contract are the property of the Grantee and the Department. Both Grantee and the Department have the royalty-free, nonexclusive, and irrevocable right to reproduce, publish, authorize others to use, and to otherwise use, in whole or part, such property and any information relating thereto. No material produced in whole or part under this Contract may be copyrighted or patented in the United States or in any other country without the prior written approval of both the Department and the Grantee.
- (b) To the extent the funds awarded under this Contract will be used by any small business firm or nonprofit organization, as defined in 37 CFR § 401.2, such firm(s)

or organization(s) are subject to the standard patent rights clause set forth in its entirety in 37 CFR § 401.14 and specifically incorporated herein by this reference.

## **Section 24. INSURANCE**

- (a) General Requirements: Grantee must maintain and assure that its representatives, assigns, and subcontractors maintain for the duration of the Contract, at their own cost and expense, liability insurance against claims for injuries to persons or damages to property, including contractual liability, that may arise from or in connection with the performance of the duties and obligations in the Contract by Grantee, its agents, employees, representatives, assigns, or subcontractors. This insurance must cover such claims as may be caused by any negligent act or omission. The State, its officers, officials, employees, and volunteers must be covered as additional insureds for all claims arising out of the use of grant proceeds provided by the State of Montana.
- (b) General Liability Insurance: At its sole cost and expense, Grantee must purchase occurrence coverage with minimum combined single limits of \$1 million per occurrence and \$2 million aggregate per year, or as established by statutory tort limits of \$750,000 per claim and \$1,500,000 per occurrence as provided by a self-insurance pool insuring counties, cities, or towns, as authorized under Section 2-9-211, MCA.
- (c) Professional Liability Insurance: Grantee shall assure that any representatives, assigns, and subcontractors performing professional services under this Contract purchase occurrence coverage with combined single limits for each wrongful act of \$1,000,000 per occurrence and \$2,000,000 aggregate per year. *Note: if "occurrence" coverage is unavailable or cost prohibitive, the contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the Contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three (3) year tail for claims that are filed after the cancellation or expiration date of the policy.*
- (d) General Provisions: All insurance coverage must be with a carrier licensed to do business in the State of Montana and with a Best's rating of at least A-, or by a public entity self-insured program either individually or on a pool basis as provided by Title 2, MCA. All certificates and endorsements must be received by the Department prior to beginning any activity provided for under the Contract. Grantee must notify the Department immediately of any material change in insurance coverage, such as changes in limits, coverage, change in status of policy, etc. The Department reserves the right to request complete copies of Grantee's insurance policy, including endorsements, at any time.

## **Section 25. HOLD HARMLESS AND INDEMNIFICATION**

The Grantee agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Grantee's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed, omissions of services, or in any way resulting from the acts or omissions of the Grantee and/or its agents, employees, representatives, assigns, or subcontractors under this Contract.

## **Section 26. DEFAULT**

Failure on the part of either party to perform the provisions of the Contract constitutes default. Default may result in the pursuit of remedies for breach of contract as set forth herein or as otherwise legally available, including but not limited to damages and specific performance.

## **Section 27. DEBARMENT**

The Grantee certifies and agrees to ensure during the term of this Contract that neither it nor its principals, contractors, subcontractors, or subrecipient entities are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by any governmental department or agency or otherwise ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

## **Section 28. FORCE MAJEURE**

Neither party will be liable for any failure or delay in performing its duties in this agreement due to Force Majeure Events. "Force Majeure Event" means an event or circumstance beyond a party's reasonable control, such as natural catastrophes and acts of terrorism or war, and the consequences of that event or circumstance. Force Majeure Event does not include a strike or other labor unrest that affects only that party, an increase in prices or other change in general economic conditions, a change in law, or an event or circumstance that results in that Party's not having sufficient funds to comply with an obligation to pay. If a Force Majeure Event continues for 30 days, the other party may terminate this agreement or suspend payments while the event continues.

## **Section 29. SEPARABILITY**

A declaration by any court, or any other binding legal forum, that any provision of the Contract is illegal and void shall not affect the legality and enforceability of any other provision of the Contract, unless the provisions are mutually dependent.

**Section 30. ARBITRATION**

Unless otherwise agreed to in writing or provided for by law, arbitration is not available to the parties as a method of resolving disputes that would arise under the Contract.

**Section 31. NO WAIVER OF BREACH**

No failure by the Department to enforce any provisions hereof after any event of breach will be deemed a waiver of its rights regarding that event, or any subsequent event. No express failure of any event of breach will be deemed a waiver of any provision hereof. No such failure or waiver will be deemed a waiver of the right of the Department to enforce each and all the provisions hereof upon any further or other breach on the part of the Grantee.

**Section 32. JURISDICTION AND VENUE**

This Contract is governed by the laws of Montana. The parties agree that any litigation concerning this Contract must be brought in the First Judicial District in Lewis and Clark County, State of Montana and each party must pay its own costs and attorney fees.

**Section 33. PROPERTY MANAGEMENT**

Title to real property or equipment acquired under this Contract or a subcontract thereto will vest, upon acquisition, in the Grantee or subgrantee, respectively. The Grantee or subgrantee shall use, manage, and dispose of this property or equipment in accordance with the applicable requirements set forth in 24 CFR part 570 and 2 CFR part 200. All real property within the Grantee's control that was acquired or improved in whole or in part using the CDBG funds awarded pursuant to this Contract shall be subject to the standards set forth in 24 C.F.R. § 570.505 during the duration of this Contract term and for five years after closeout of the Project. In all cases in which equipment acquired pursuant to this Contract is sold, the proceeds shall be program income. The parties intend that obligations in this section shall survive termination of the Contract.

### **Section 34. INTEGRATION**

The Contract contains the entire agreement between the parties. No statements, promises, or inducements of any kind made by either party or the agents of either party, not contained herein or in a properly executed amendment hereto are valid or binding.

IN WITNESS OF THE TERMS SET OUT ABOVE, the parties hereto have caused this Contract to be executed.

#### **CITY OF MISSOULA:**

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Gwen Jones, Interim Mayor **ATTEST:**

Date

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Marty Rehbein, City Clerk

#### **APPROVED AS TO FORM:**

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Jim Nugent, Attorney

#### **MONTANA DEPARTMENT OF COMMERCE:**

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Adam Schafer, Deputy Director

Date

**EXHIBIT A**  
**Implementation Schedule**

	<b>QUARTERS 2022</b>			
<b>TASKS</b>	<b>1ST JFM</b>	<b>2ND AMJ</b>	<b>3RD JAS</b>	<b>4TH OND</b>

**PROJECT START UP**

Land/Structure/Easement Acquisition				<b>X</b>
Submit firm commitment of all funding			<b>X</b>	
Submit all required start-up documents			<b>X</b>	
Secure Environmental Release of Funds			<b>X</b>	

**PROJECT DESIGN**

Procure professional services			<b>X</b>	
Complete project design				
Prepare construction bid documents				

**CONSTRUCTION BIDDING**

Publish public bid solicitation				
Open bids and examine proposals.				
Complete debarment check				
Award contract				

**PROJECT CONSTRUCTION**

Conduct pre-construction conference.				
Issue Notice to Proceed				
Monitor contractor(s)				
Document labor standards compliance				
Final Inspection				

**PROJECT CLOSE OUT**

Submit Certificate of Occupancy (or its equivalent)				<b>X</b>
Submit final Request for Reimbursement and Project Completion Report				<b>X</b>



EXHIBIT B  
Budget

	<b>CDBG-CV</b>	<b>Seller Financing</b>	<b>NWMT Loan</b>	<b>Total</b>
<i>Administrative Costs</i>				
Legal Costs			\$4,000	\$4,000
Professional Services			\$157,230	\$157,230
Financing Fees			\$6,925	\$6,925
City of Missoula Administrative Costs	\$15,000			\$15,000
NWMT Grant Administration Costs			\$15,000	\$15,000
<b>Total Administration</b>	\$15,000	\$0	\$183,155	\$198,155
<i>Activity Costs</i>				
Acquisition Costs	\$835,000	\$1,485,000	\$380,000	\$2,700,000
Reserve Funds at Closing			\$128,975	\$128,975
<b>Total Activity</b>	\$835,000	\$1,485,000	\$508,975	\$2,828,975
<b>Total Project Budget</b>	<b>\$850,000</b>	<b>\$1,485,000</b>	<b>\$692,130</b>	<b>\$3,027,130</b>