

Return to:
Grants Administrator
City/County Dept. of Grants & Community Programs

CFDA NO. 14.239

HOME INVESTMENT PARTNERSHIPS PROGRAM AGREEMENT

This Agreement is entered into by District XI Human Resource Council (HRC), a Montana non-profit corporation (Awardee) and the City of Missoula, Montana (City).

RECITALS

- A. The Home Investment Partnerships (HOME) program was created in 1990 and is administered by the Federal Government through the U.S. Department of Housing and Urban Development (HUD). The objective of the HOME Program is the development of a wide range of activities including building, buying, and/or rehabilitating affordable housing for rent or homeownership or providing direct rental assistance to low-income people.
- B. The City of Missoula has received authority to expend recaptured HOME funds and awarded additional funds by the Montana Department of Commerce (MDOC) to be administered by the City in furtherance of the HOME and MDOC program objectives.
- C. The DISTRICT IX HUMAN RESOURCE COUNCIL has administered these funds for the City since MDOC's initial award in 1992, and the City is continuing to designate HRC as its subrecipient to carry out these program activities.

Now therefore, based on the Recitals above, the Awardee and the City agree to the following terms:

1. PURPOSE

- a. The purpose of this Agreement is to enumerate the duties, responsibilities, and lines of authority for the administration of project activities approved by the City to carry out Contract **MT-HOME-15-CM-HBA-PIRF-1** under the rules and regulations of the Montana Department of Commerce (MDOC) and the U.S. Department of Housing and Urban Development (HUD) Home Investment Partnerships Program (HOME).

2. HOME MANAGEMENT PLAN INCORPORATED BY REFERENCE

- a. The City's Management Plan for the Single Family Noncompetitive Program for Homebuyer Assistance Activities, referenced in Contract MT-HOME-15-CM-HBA-PIRF-1 and approved by MDOC, is incorporated into this Agreement by this reference and the representations made in the Plan are binding upon the Awardee.

3. ACCEPTANCE OF HOME PROGRAM REQUIREMENTS

- a. The Awardee will comply with all applicable parts of Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended; the applicable Department of Housing and Urban Development (HUD) regulations in 24 CFR Part 92, as now in effect or as they may be amended during the term of this agreement; all requirements established by the City; applicable State and federal laws, regulations, administrative directives and procedures; and local ordinances and resolutions.
- b. The Awardee expressly agrees to repay to the City any funds advanced to the Awardee under this Agreement which the Awardee, its subrecipient entities, or any public or private agent or agency to which it delegates authority to carry out portions of this Agreement expends in violation of the terms of this Agreement or the federal statutes and regulations governing the HOME Program.

4. ADMINISTRATION

- a. The Department of Grants and Community Programs (GCP) shall be the department which administers this grant on behalf of the City of Missoula. Any reference to GCP indicates an administrative function to be performed by GCP staff.

5. EFFECTIVE DATE AND TIME OF PERFORMANCE

- a. This Agreement takes effect upon execution by the parties, and will terminate upon completion of the final project closeout by GCP, but in any event no later than the effective date of Contract # MT-HOME-15-CM-HBA-PIRF-1 between the City of Missoula and the Montana Department of Commerce. The activities to be performed by the Awardee will be completed according to the implementation schedule included as Attachment A to this Agreement, which by this reference is made a part of this Agreement.

6. SCOPE OF ACTIVITIES

- a. The Awardee will engage in the activities set forth in the City's Management Plan with MDOC. The major components of the project include but are not limited to:
 - i. Will provide financing to first-time homebuyer households whose incomes are at or below 80% of the local median income, as determined by the U.S. Department of Housing and Urban Development (HUD), for the purpose of purchasing residences owned and occupied by those respective households.
 - ii. Will recruit qualifying homebuyers and determine levels of assistance necessary for purchase of homes.
 - iii. Will ensure that homes being purchased meet housing quality standards as established by HUD.
 - iv. Will ensure that first-time homebuyers' training and counseling is provided to each assisted household prior to sale closing.
 - v. Will comply with applicable codes, regulations and standards.
 - vi. Will provide reports to the City of Missoula and the Montana Department of Commerce on prescribed forms and including family size, ethnicity, type, and income information for all program participants.

- vii. Will designate a representative who is involved in the project activities for which these HOME funds have been awarded as the designated representative to attend qualified fair housing training. The Awardee must certify by providing a copy of the attendance certificate that this designated representative has either attended a qualified fair housing training within one year prior to the receipt of funds, or will attend a qualified fair housing training within one year of first receipt of funds. For the purposes of this requirement, “qualified fair housing training” means any fair housing training receiving continuing professional credit (CLE, licenses real estate agents or property managers education credit architects education credit, etc.).

7. AMOUNT OF AWARD AND BUDGET

- a. The total amount of this Agreement will not exceed \$600,000. The City will have no obligation to pay for any project activities that exceed this award amount.
- b. A copy of the project budget is included as Attachment B to this Agreement, and by this reference is made a part of this Agreement and binding upon the Awardee.
- c. Budget adjustments must be approved in advance by GCP. For adjustments between line items of the HOME portion of Attachment B, in an amount not to exceed \$1,000, GCP’s approval of the Request for Payment form will constitute approval of the budget adjustment. Budget adjustment requests in excess of \$1,000 must be submitted to GCP in writing and are subject to an approval review process by GCP. The Awardee must describe the rationale for a budget adjustment.
- d. The amount of funds used by the Awardee to assist households will be evaluated at 12 months after the start of the contract to determine if the funds are being spent at a rate so that all funds will be expended by the end of this Agreement. If, in the sole opinion of the City, funds are not being utilized to the fullest extent, as indicated by whether 50% of funds are spent after 12 months, the City will reduce the maximum amount listed in Section 7.a. of this Agreement and will reallocate the funds to another HOME-eligible project, in coordination with MDOC.
- e. If the actual total cost of completing a/the project is less than has been projected by the Awardee in the budget (Attachment B), GCP may, at its discretion, reduce the amount to be provided under this Agreement in an amount equal to the difference between the projected funds and the funds actually spent.

8. SPECIAL PROJECT START UP CONDITIONS

- a. The Awardee will not obligate or utilize funds for any activities provided for by this Agreement until:
 - i. GCP completes an Environmental Review Record, if applicable, and
 - ii. GCP issues a Notice of Release of Funds.

9. PROCEDURE FOR DISBURSEMENT OF FUNDS

- a. The City will pay to the Awardee funds available under this Agreement upon approval by GCP of the Awardee’s Request for Payment.
- b. The City will reimburse the Awardee for approved, eligible, and necessary expenses according to the documentation submitted by the Awardee to support the expenditures. The City will not reimburse the Awardee for any expenses not included in the approved budget or not clearly and accurately supported by the Awardee’s records. Any authorized funds not expended or

committed to a homebuyer by September 15, 2017 will revert to the City and will be used to finance other HOME projects.

- c. The reimbursement of eligible costs incurred is contingent upon the Awardee's completion of Section 8. SPECIAL PROJECT START UP CONDITIONS. In the event the Awardee is unable to comply with the terms and the conditions of this Agreement, any costs incurred will be the Awardee's sole responsibility.
- d. If the City determines that the Awardee has failed to satisfactorily carry out its responsibilities under this Agreement, GCP may revoke the Awardee's authority to draw against the reservation described in this Agreement until GCP and the Awardee agree on a plan to remedy the deficiency.
- e. GCP reserves the right to withdraw a commitment for any HOME funds which remain unobligated by Awardee 24 months after the date of execution of this Agreement.

10. NOTICE

- a. All notices, demands, and consents provided for in this Award Agreement must be given in writing and shall be sent by U.S. Mail or hand-delivered to the following:
 - i. The City's liaison with the Awardee regarding all administrative and technical matters concerning this Agreement is:

Erin Kautz, Grants Administrator
Missoula City/County Department of Grants and Community Programs
200 W. Broadway
Missoula, MT 59802
(406) 258-4904

- ii. The Awardee's liaison with the City for administrative and technical matters is:

Jim Morton, Executive Director
District XI Human Resource Council
1801 S. Higgins
Missoula, MT 59801
(406) 728-3710

11. OWNERSHIP AND PUBLICATION OF MATERIALS

- a. All reports, information, data, and other materials prepared by any Awardee or subrecipient pursuant to this Agreement are to be the property of the Awardee and the City which have exclusive and unrestricted authority to release, publish or otherwise use, in whole or in part, information relating thereto. No material produced in whole or part under this Agreement may be copyrighted or patented in the United States or in any other country without the City's prior written approval.

12. ACCESS TO RECORDS AND PROJECT MONITORING

- a. The Awardee will maintain adequate and reasonable records of its performance under this Agreement and will allow access to these records at any time during normal business hours by the

City, the Montana Department of Commerce (MDOC), the U.S. Department of Housing and Urban Development, and the Comptroller General. These records will be kept in the Awardee's offices in Missoula, Montana.

- b. The City, GCP, MDOC, or its agents may monitor and inspect all phases and aspects of the Awardee's performance to determine compliance with the Scope of Work, and other technical and administrative requirements, including the adequacy of the Awardee's records and accounts. GCP will advise the Awardee of any specific areas of concern and provide the Awardee opportunity to propose corrective actions acceptable to GCP and MDOC.

13. PROJECT PROGRESS REPORTING

- a. During the term of this agreement, the Awardee will submit a Project Progress Report to GCP during each quarter for the periods ending September, December, March, and June. This report will describe the status of the project with respect to each implementation objective including, at a minimum, the percentage of the project which has been completed, costs incurred, funds remaining and anticipated completion date. The report must also describe any significant problems encountered and any necessary modification of the project scope or implementation schedule that is being requested.
- b. The Awardee will submit the Project Progress Report to GCP within 10 days of the close of each quarter. The City will not honor claims for payment until the required quarterly report has been submitted to and approved by GCP. Project Progress Reports submitted during a quarter in conjunction with a Request for Payment will satisfy the quarterly progress-reporting requirement.

14. NONDISCRIMINATION

- a. All hiring shall be on the basis of merit and qualification and there shall be no discrimination in employment on the basis of race; ancestry; color; physical or mental disability; religion; national origin; sex; age; marital or familial status; creed; ex-offender status; physical condition; political belief; public assistance status; or sexual orientation, gender identity or expression, except where these criteria are reasonable bona fide occupational qualifications.

15. AFFIRMATIVE ACTION POLICY

- a. Contractors, subcontractors, sub grantees, and other firms doing business with the City of Missoula must be in compliance with the City of Missoula's Affirmative Action Plan, and Title 49 Montana Codes Annotated, entitled "Human Rights" or forfeit the right to continue such business dealings.

The City's Affirmative Action Policy Statement is:

The Mayor of the City of Missoula is committed to implement affirmative action to provide all persons equal opportunity for employment without regard to race, ancestry, color, handicap, religion, national origin, sex, age, marital status, creed, ex-offender status, physical condition, political beliefs, public assistance status or sexual preference. In keeping with this commitment, we are assigning to all department heads and their staff the responsibility of actively facilitating equal opportunity for present employees, applicants, and trainees. This responsibility shall include assurance that employment decisions are based on furthering the principle of equal employment opportunity by imposing only valid requirements for employment and assuring that all personnel actions are administered on the basis of job necessity.

Specific responsibility for development, implementation, monitoring and reporting will be assigned to the City Personnel staff under the supervision of the Mayor's Administrative Assistant.

It is the policy of the City of Missoula to take affirmative action to eliminate discrimination in personnel policies and procedures that have adverse impact on the "affected class" unless sex, ex-offenders status, and/or physical or mental handicap relates to a bona fide occupational qualification. Equal opportunities shall be provided for all City employees during their terms of employment. All applicants for City employment shall be recruited from the available labor market, and employed on the basis of their qualifications and abilities. The City of Missoula, where practical, shall utilize minority owned enterprises and shall ensure that subcontractors and vendors comply with this policy. Failure of subcontractors and vendors to comply with this policy statement shall jeopardize initial, continued, or renewed funds.

Our commitment is intended to promote equal opportunity in all employment practices and provide a positive program of affirmative action for the City of Missoula, its employees, program participants, trainees and applicants.

16. AVOIDANCE OF CONFLICT OF INTEREST

- a. The Awardee will comply with the provisions of the applicable HUD regulations of 24 CFR 92.356; and with sections 2-2-125, 2-2-201, and 7-5-4109, MCA, (as applicable) regarding the avoidance of conflict of interest.

17. MODIFICATION AND ASSIGNABILITY OF AGREEMENT

- a. This Agreement contains the entire agreement between the parties, and no statements, promises, or inducements made by either party, or agents of either party, which are not contained in or authorized by this written Agreement, are valid or binding. This Agreement may not be enlarged, modified, or altered except upon written agreement, and does not imply any continuing commitment by the City of Missoula beyond the termination date noted in this Agreement. The Awardee accepts responsibility for the adherence to the terms of this Agreement by any subrecipient or other affiliated entities and by public or private agents or agencies to which it delegates authority to carry out portions of this Agreement.

18. CONSTRUCTION AND VENUE

- a. This Agreement will be construed under and governed by the laws of the State of Montana. In the event of litigation concerning it, venue is in the District Court of the Fourth Judicial District in and for the County of Missoula, State of Montana.

19. INDEMNIFICATION

- a. The Awardee waives any and all claims and recourse against the City including the right of contribution, for loss or damage to persons or property arising from, growing out of, or in any way connected with or incidental to the Awardee's or any subrecipient's performance under this Agreement.
- b. Further, the Awardee will indemnify, hold harmless, protect, defend and save the City, its elected and appointed officials, agents and employees, while acting within the scope of their duties as such, against any and all claims, demands, damages, costs, liability, expenses, including

reasonable attorneys' fees, or causes of action of any kind or character, including the cost of defense arising out of the performance or omissions of performance or in any way resulting from the acts or omissions of the Awardee and/or its agents, employees, representatives, assigns, subrecipients, and/or subcontractors under this Agreement.

20. WORKERS' COMPENSATION AND LIABILITY INSURANCE COVERAGE

- a. Workers' Compensation: The Awardee must, at its own expense, obtain and keep in force any required workers' compensation insurance. The City of Missoula is not the worker's compensation insurer of the Awardee's employees. The Awardee must have current workers' compensation insurance in place for its employees. The City of Missoula shall have no liability with respect to any and all actions of the Awardee's employees, officers or agents. The Awardee shall provide GCP with a certificate of insurance evidencing the Awardee's worker's compensation insurance coverage.
- b. Liability Insurance: The Awardee must, at its own expense, obtain and keep in force general commercial liability insurance to provide insurance against liability for loss, damage, or injury to property or persons that might arise out of the Awardee's activities. The City of Missoula shall have no liability with respect to any and all actions of the Awardee's officers, employees or agents. The Awardee shall provide GCP with a certificate of insurance evidencing liability insurance.

21. AWARD AGREEMENT AMENDMENT

- a. The Awardee may request that this agreement be amended. However, GCP will allow an amendment only if the Awardee clearly demonstrates that the modification is justified and will enhance the overall impact of the original project.
- b. GCP will not approve amendments to the scope of work or the budget that will affect high priority activities or improvements that would materially alter the circumstances under which the Award was originally awarded.
- c. If GCP determines that the proposed amendment represents a substantial change in the project activities proposed in this Agreement or the City's Qualifying Entity Management Plan, GCP will seek the approval of the Montana Department of Commerce.
- d. No amendment to the Award Agreement will occur unless the amendment is set forth in writing and signed by GCP and the Awardee.

22. PROPERTY MANAGEMENT

- a. Title to real property or equipment acquired under an award or subaward will vest upon acquisition in the Awardee. The Awardee will use, manage, and dispose of this property or equipment in accordance with the requirements set out in 24 CFR Part 85, Subpart C and 24 CFR Part 570, Subpart J.

23. TERMINATION OF AWARD AGREEMENT

- a. This agreement may be terminated as follows:
 - i. Termination and Modification Due to Loss of Funding. If, for any reason, the federal or state financial resources required by the City to fund the Awardee's project are withdrawn from the City, the City may unilaterally terminate or modify the terms of this

Agreement to reflect the loss of funding. If a termination or modification is required, the City will, to the extent permitted by available HOME funds, compensate the Awardee for eligible work elements the Awardee has completed and for actual, necessary and eligible expenses incurred by the Awardee as of the revised termination date. The City will give the Awardee written notice of the effective date of the modification or termination of this Agreement and, if a reduction in funding is required, will provide the Awardee with a modified project budget.

- ii. Termination Due to Noncompliance with Agreement Terms. If the City determines that the Awardee has failed to comply with the general terms and conditions of this Agreement, the project schedule, or any special conditions, and if upon notification of the defect the Awardee does not remedy the deficiency within a reasonable period to be specified in the notice, the City may terminate this Agreement in whole or in part at any time before the date of completion. The City will promptly notify the Awardee in writing of the decision to terminate, the reasons for the termination, and the effective date of the termination.
 - iii. Termination Due to Adverse Environmental Impact. This Agreement will terminate at the conclusion of the environmental review process if the Awardee or the City determines that the project would have a significant adverse impact on the quality of the human environment and that this impact cannot be avoided or sufficiently mitigated by reasonable, cost-effective means.
- b. Effect of Termination. In the event of termination due to the Awardee's failure to comply with the terms of this Agreement or the project's adverse environmental impact, any costs incurred will be the responsibility of the Awardee. However, at its discretion, GCP may approve requests by the Awardee for reimbursement of expenses incurred. GCP's decision to authorize payment of these costs or to recover expended HOME funds will be based on a consideration of the extent to which the expenditure of those funds represented a good faith effort of the Awardee to comply with the terms of this Agreement and on whether any failure to comply with the terms of this Agreement was the result of circumstances beyond the Awardee's control.

24. WAIVER

- a. The waiver of any of the terms and conditions of this Award Agreement on any occasion or occasions is not to be deemed as waiver of those terms and conditions on any future occasion.

25. SEVERABILITY

- a. If any section, subsection, sentence, clause, phrase or word of this Award Agreement is for any reason held to be invalid, illegal, or unenforceable, such decision shall not affect the validity of the remaining portions of this Award Agreement.

26. ATTORNEYS' FEES

- a. In the event of a breach of the terms of this Award Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs incurred in the enforcement of the terms of this Award Agreement.

27. SUCCESSORS AND ASSIGNS

- a. This Award Agreement inures to the benefit of and constitutes a binding obligation on the Awardee and their respective successors and assigns. The Awardee may not assign this Award Agreement or any of its duties hereunder without the prior written consent of the City.

28. OPEN MEETINGS

- a. All meetings of the Awardee’s Board of Directors will be open to the public as per the applicable Montana Code Annotated provisions in 2-3-203, MCA.

IN WITNESS OF THE TERMS SET OUT ABOVE, the parties have executed this Agreement.

CITY OF MISSOULA

BY:

John Engen, Mayor

DATE: _____

ATTEST:

Martha L. Rehbein, CMC
City Clerk

DISTRICT XI HUMAN RESOURCE COUNCIL

BY:

Larry DeGarmo, Board President

DATE: _____

STATE OF MONTANA)
)
County of Missoula)

On this _____ day of _____, 2015, before me _____, a Notary Public for the State of Montana, personally appeared, Larry DeGarmo, Board President, District XI Human Resource Council in Montana, and acknowledged to me that he executed the written instrument on behalf of said Business.

(NOTARY SEAL)

(signature)
PRINTED NAME: _____
Notary Public for the State of Montana
Residing at _____
My Commission expires _____

ATTACHMENT A: PROJECT IMPLEMENTATION

	Anticipated Completion (month/year)	Actual Completion* (month/year)
Financing		
Construction Loan Commitment		
Construction Loan Closing		
Low Income Housing Tax Credits		
Award Commitments (list awards separately)		
1. <input type="text"/>		
3. <input type="text"/>		
Permanent Loan Commitment:		
Permanent Loan Closings		
Other _____		
Other _____		
Project Start-up		
Site Acquisition		
Zoning		
Infrastructure Available		
Environmental Review	Ongoing to closeout	
Advertise Architect / Engineer		
Design Completion		
Advertise for Construction Bids		
Construction Bid Award		
Building Permits		
Marketing		
Other _____		
Other _____		
Project Activities		
Audit		
Marketing	August, 2018	
Prequalification Activities	August, 2018	
Homebuyer Workshops		
Rehabilitation		
Rent-up		
Closeout	August, 2018	
Other <u>Homebuyer Assistance</u>	August, 2018	

*Use Actual date if activity has already occurred.

ATTACHMENT B: BUDGET

SOURCES:	MDOC HOME Recaptured funds	MBOH / Conv. Loans	HRC	Homebuyers	TOTAL BUDGET
ADMINISTRATION					
Personnel Services					
Supplies					
Communications					
Printing/Duplication/Postage					
Other Administration			60,000		60,000
TOTAL ADMINISTRATION			\$60,000		\$60,000
PROFESSIONAL WORK/FEES					
Housing Quality Inspections	850				850
Homebuyer Education & Counseling	4,250				4,250
Other Professional Work/Fees	25,500				25,500
TOTAL PROF. WORK & FEES	\$30,600				\$30,600
DIRECT ASSISTANCE					
Homebuyer Downpayment &	569,400	2,740,000		65,000	3,374,400
Other Direct Assistance					
TOTAL DIRECT ASSISTANCE	\$569,400	2,740,000		65,000	3,374,400
GRAND TOTAL COSTS	\$600,000	\$2,740,000	\$60,000	\$65,000	\$3,465,000