

**COMMUNITY DEVELOPMENT BLOCK GRANT AWARD AGREEMENT
AWARD AGREEMENT 14-05**

This Award Agreement is entered into by GARDEN CITY HARVEST (grant recipient), a Montana non-profit corporation, and the City of Missoula, Montana, (the City).

RECITALS

- A. The Community Development Block Grant (CDBG) program was created in 1974 and is administered by the Federal Government through the U.S. Department of Housing and Urban Development (HUD). The objective of the CDBG Program is the development of viable urban communities by providing decent housing, a suitable living environment, and expanding economic opportunities for low and moderate-income individuals.
- B. The City of Missoula is an Entitlement City in the CDBG Program, and has received an allocation of CDBG funds to be administered by the City in furtherance of the CDBG Program Objectives.
- C. The City of Missoula utilizes a competitive grant application process to determine how to allocate and spend the CDBG funds awarded to the City.
- D. GARDEN CITY HARVEST has submitted an application for CDBG funds. This application has been fully reviewed and approved by the Missoula City Council in compliance with public open-meeting requirements.

Now therefore, based on the Recitals above, GARDEN CITY HARVEST and the City agree to the following terms:

1. PURPOSE

The purpose of this Award Agreement is to provide funding for project activities approved by the City under the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program. The terms, obligations and requirements that GARDEN CITY HARVEST needs to perform in exchange for this award of funding are set forth in this Award Agreement, and upon execution of this Award Agreement, are binding on all parties.

2. APPLICATION INCORPORATED BY REFERENCE

GARDEN CITY HARVEST's application for CDBG assistance is incorporated into this Award Agreement by this reference and the representations made in the application are binding upon GARDEN CITY HARVEST. If GARDEN CITY HARVEST undertakes activities not represented in the application this Award Agreement may be subject to termination pursuant to

the terms of Section 23 of this Award Agreement.

3. ACCEPTANCE OF CDBG PROGRAM REQUIREMENTS

GARDEN CITY HARVEST will comply with all applicable parts of Title I of the Housing and Community Development Act of 1974, as amended; the applicable Department of Housing and Urban Development (HUD) regulations in 24 CFR Part 570, as now in effect or as they may be amended during the term of this Award Agreement; all requirements established by the City; applicable State and federal laws, regulations, administrative directives and procedures; and local ordinances and resolutions.

GARDEN CITY HARVEST agrees that all contracts entered into by it for the completion of the activities set forth in their application and summarized in Section 6 of this Award Agreement will contain special provisions requiring contractors to comply with all applicable state and federal requirements.

GARDEN CITY HARVEST expressly agrees to repay to the City any funds advanced to GARDEN CITY HARVEST under this Award Agreement which GARDEN CITY HARVEST, its subcontractors or subrecipient entities, or any public or private agent or agency to which it delegates authority to carry out portions of this Award Agreement expends in violation of the terms of this Award Agreement or the federal statutes and regulations governing the CDBG Program.

4. ADMINISTRATION

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

This Award Agreement shall take effect upon execution by all the parties. GARDEN CITY HARVEST may be able to receive reimbursement for costs expended in furtherance of the approved list of activities contained in GARDEN CITY HARVEST's application for costs incurred between July 1 and the date of execution of this Award Agreement. Reimbursement for already expended costs is purely a discretionary decision to be made by GCP staff, and shall be evaluated on a case-by-case basis. If reimbursement is allowed, reimbursement for already expended costs is limited to only those costs allowed by 24 CFR 200(h).

6. SCOPE OF ACTIVITIES

The allocation of CDBG funds awarded to GARDEN CITY HARVEST by the City must be utilized to achieve and/or perform the identified list of activities set forth in GARDEN CITY HARVEST's application for CDBG grant assistance. By accepting the award of CDBG funds, GARDEN CITY HARVEST agrees to perform all activities identified in its CDBG application. The major components of the approved project include, but are not limited to:

- GARDEN CITY HARVEST will host and manage 14 community garden plots, including four plots that are accessible to people with mobility impairments.
- GARDEN CITY HARVEST will grow vegetables to support 23 Community Supported Agriculture shares, provide 6,000 pounds of vegetables to the Missoula Food Bank and the Mobile Market.
- GARDEN CITY HARVEST will host a seasonal Volunteer for Veggies program for approximately 100 youth and adults, working individually and in groups.
- GARDEN CITY HARVEST will create and manage a kids' garden and offer a gardening/cooking program to Orchard Garden resident children.
- GARDEN CITY HARVEST will make requests for payment based on timely completion of the tasks included in this scope of work.
- GARDEN CITY HARVEST will provide information and documentation to the City of Missoula on prescribed forms and this documentation shall include information regarding family size, ethnicity, type, and income information for all program participants

7. AMOUNT OF AWARD AND BUDGET

- (a) The total amount of CDBG funds awarded to GARDEN CITY HARVEST by the City will not exceed \$10,300.00. 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 A to this Award Agreement, and by this reference is made a part of this Award Agreement and binding upon GARDEN CITY HARVEST.
- (c) Budget adjustment requests must be approved in advance by GCP. For adjustments between line items of the CDBG portion of Attachment A, in an amount not to exceed \$1,000, GCP's approval of the Request for Payment form submitted by GARDEN CITY HARVEST will constitute approval of the requested 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.

8. SPECIAL PROJECT START UP CONDITIONS

GARDEN CITY HARVEST will not obligate or utilize funds for any activities provided for by this Award Agreement until:

- (a) GCP completes an Environmental Review Record, and
- (b) GCP issues a Notice of Release of Funds

9. PROCEDURE FOR DISBURSEMENT OF FUNDS

- (a) The City will pay to GARDEN CITY HARVEST funds available under this Award Agreement upon approval by GCP of GARDEN CITY HARVEST's Request for Payment. The City will reimburse GARDEN CITY HARVEST for approved, eligible and necessary expenses according to the documentation submitted by GARDEN CITY HARVEST to support the expenditures. The City will not reimburse GARDEN CITY HARVEST for any expenses not included in the approved budget or not clearly and accurately supported by GARDEN CITY HARVEST's records. Any awarded funds not expended by GARDEN CITY HARVEST within 24 months of the date of execution of this Award Agreement will revert to the City and will be used to finance other CDBG projects.
- (b) The reimbursement of eligible costs incurred is contingent upon GARDEN CITY HARVEST's completion of Section 8. SPECIAL PROJECT START-UP CONDITIONS. In the event GARDEN CITY HARVEST is unable to comply with the terms and the conditions of this Award Agreement, any costs incurred will be GARDEN CITY HARVEST's sole responsibility.
- (c) If the actual total cost of completing the project is less than has been projected by GARDEN CITY HARVEST in the budget (Attachment A), GCP may, at its discretion, reduce the amount to be provided to GARDEN CITY HARVEST under this Award Agreement in proportion to the overall savings.
- (d) If GCP determines that GARDEN CITY HARVEST has failed to satisfactorily carry out its responsibilities under this Award Agreement, GCP may revoke GARDEN CITY HARVEST's authority to draw against the awarded funds described in this Award Agreement until GCP and GARDEN CITY HARVEST agree on a plan to remedy the deficiency.
- (e) GCP reserves the right to withdraw a commitment for any CDBG funds which remain unobligated 24 months after the date of execution of this Award Agreement.

10. NOTICE

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:

The City's contact for all administrative and technical matters concerning this Award Agreement is:

Melissa Gordon, Grants Administrator
Department of Grants and Community Programs
223 W. Alder
Missoula, MT 59802
(406) 258-4980

GARDEN CITY HARVEST's contact for all administrative and technical matters Concerning this Award Agreement is:

Jean Zosel, Executive Director
Garden City Harvest
103 Hickory Street
Missoula, MT 59801
(406) 523-3663

11. OWNERSHIP AND PUBLICATION OF MATERIALS

All reports, information, data, and other materials prepared by any contractor or subcontractor pursuant to this Award Agreement are to be the property of GARDEN CITY HARVEST 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 Award 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) GARDEN CITY HARVEST will maintain adequate and reasonable records of its performance under this Award Agreement and will allow access to these records at any time during normal business hours by the City, the U.S. Department of Housing and Urban Development and the Comptroller General. These records will be kept in GARDEN CITY HARVEST's offices in Missoula, Montana.
- (b) GCP may monitor and inspect all phases and aspects of GARDEN CITY HARVEST's performance to determine compliance with the Scope of Activities, and other technical and administrative requirements, including the adequacy of GARDEN CITY HARVEST's records and accounts. GCP will advise GARDEN CITY HARVEST of any specific areas of concern and provide GARDEN CITY HARVEST opportunity to propose corrective actions acceptable to GCP.

13. PROJECT PROGRESS REPORTING

- (a) During the term of this Award Agreement, GARDEN CITY HARVEST will submit a Project Progress Report to GCP during each quarter for the periods ending September, December, March, and June. This report must 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 are being requested.
- (b) GARDEN CITY HARVEST 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. NON-DISCRIMINATION

All hiring shall be on the basis of merit and qualification and there shall be no discrimination in employment on the basis 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

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

GARDEN CITY HARVEST will comply with the provisions of the applicable HUD regulations of 24 CFR 570.611; 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 OF AWARD AGREEMENT

This Award Agreement, together with all referenced and incorporated attachments, 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 Award Agreement, are valid or binding. This Award Agreement may not be enlarged, modified, or altered except upon mutual written agreement of the parties except for amendments made by the City pursuant to Section 23 of this Award Agreement. GARDEN CITY HARVEST accepts responsibility for the adherence to the terms of this Award Agreement by subcontractor or subrecipient entities and by public or private agents or agencies to which it delegates authority to carry out portions of this Award Agreement.

18. CONSTRUCTION AND VENUE

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

19. INDEMNIFICATION

- (a) GARDEN CITY HARVEST 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 GARDEN CITY HARVEST's or any subrecipient's performance under this Award Agreement.
- (b) GARDEN CITY HARVEST agrees to indemnify, hold harmless, and defend the City, its officers, agents and employees, from any and all actions, lawsuits, claims, demands, damages, costs, expenses, fines, penalties or liability of any character whatsoever, and any costs or expenses, including reasonable attorneys' fees and costs incurred enforcing this obligation or defending a third party claim, arising out of GARDEN CITY HARVEST, its officers, employees, agents or assigns' acts or omissions under this Award Agreement

20. WORKERS COMPENSATION AND LIABILITY INSURANCE COVERAGE

- (a) Worker's Compensation: GARDEN CITY HARVEST must, at their own expense, obtain and keep in force any required workers' compensation insurance. The City of Missoula is not the worker's compensation insurer of GARDEN CITY HARVEST's employees. GARDEN CITY HARVEST 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 GARDEN CITY HARVEST's employees, officers or agents. GARDEN CITY HARVEST shall provide GCP with a certificate of insurance evidencing GARDEN CITY HARVEST's worker's compensation insurance coverage.
- (b) Liability Insurance: GARDEN CITY HARVEST must, at their 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 GARDEN CITY HARVEST's activities. The City of Missoula shall have no liability with respect to any and all actions of GARDEN CITY HARVEST's officers, employees or agents. GARDEN CITY HARVEST shall provide GCP with a certificate of insurance evidencing liability insurance.

21. AWARD AGREEMENT AMENDMENT

- (a) GARDEN CITY HARVEST may request that this Award Agreement be amended. However, GCP will allow an amendment only if GARDEN CITY HARVEST clearly demonstrates that the modification is justified and will enhance the overall impact of the original project. GCP will consider each request to determine whether the modification is substantial enough to necessitate reevaluating the project's original ranking. If warranted, GCP will analyze the impact of the proposed modification on the scores assigned GARDEN CITY HARVEST's application in the original grant competition.
- (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 grant was originally ranked.

- (c) If GCP determines that the proposed amendment represents a substantial change in the project activities proposed in the original application for CDBG funds, the City will hold a local public hearing on the amendment with reasonable notice.
- (d) No amendment to the Award Agreement will occur unless the amendment is set forth in writing and signed by GCP and GARDEN CITY HARVEST.

22. PROPERTY MANAGEMENT

Title to real property or equipment acquired under a grant or subgrant will vest upon acquisition in GARDEN CITY HARVEST or subgrantee. GARDEN CITY HARVEST or subgrantee 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

This Award Agreement may be terminated as follows:

- (a) **Termination and Modification Due to Loss of Funding.** If, for any reason, the federal financial resources required by the City to fund GARDEN CITY HARVEST's project are withdrawn from the City, the City may unilaterally terminate or modify the terms of this Award Agreement to reflect the loss of funding. If a termination or modification is required, the City will, to the extent permitted by available CDBG funds, compensate GARDEN CITY HARVEST for eligible work elements GARDEN CITY HARVEST has completed and for actual, necessary and eligible expenses incurred by GARDEN CITY HARVEST as of the revised termination date. The City will give GARDEN CITY HARVEST written notice of the effective date of the modification or termination of this Award Agreement and, if a reduction in funding is required, will provide GARDEN CITY HARVEST with a modified project budget.
- (b) **Termination Due to Noncompliance with Award Agreement Terms.** If the City determines that GARDEN CITY HARVEST has failed to comply with the general terms and conditions of this Award Agreement, the project schedule, or any special conditions, and if upon notification of the defect GARDEN CITY HARVEST does not remedy the deficiency within a reasonable period to be specified in the notice, the City may terminate this Award Agreement in whole or in part at any time before the date of completion. The City will promptly notify GARDEN CITY HARVEST in writing of the decision to terminate, the reasons for the termination, and the effective date of the termination.
- (c) **Termination Due to Adverse Environmental Impact.** This Award Agreement will terminate at the conclusion of the environmental review process if GARDEN CITY HARVEST 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.

- (d) Effect of Termination. In the event of termination due to GARDEN CITY HARVEST's failure to comply with the terms of this Award Agreement or the project's adverse environmental impact, any costs incurred will be the responsibility of GARDEN CITY HARVEST. However, at its discretion, the City may approve requests by GARDEN CITY HARVEST for reimbursement of expenses incurred. The City's decision to authorize payment of these costs or to recover expended CDBG funds will be based on a consideration of the extent to which the expenditure of those funds represented a good faith effort of GARDEN CITY HARVEST to comply with the terms of this Award Agreement and on whether any failure to comply with the terms of this Award Agreement was the result of circumstances beyond GARDEN CITY HARVEST's control.

24. WAIVER

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

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

26. ATTORNEYS FEES

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

27. SUCCESSORS AND ASSIGNS.

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

28. OPEN MEETINGS

All meetings of GARDEN CITY HARVEST'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 Award Agreement.

City of Missoula:

GARDEN CITY HARVEST:

John Engen, Mayor

Aaron Brock, Co-Chair, Board of Directors

Date: _____

Date: _____

Melanie Puckett, Co-Chair, Board of Directors

Date: _____

ATTEST:

Martha L. Rehbein, CMC
City Clerk

Attachment A: Project Budget

	Source: CDBG	Source: Program Income & Donations	Source: Grants	Source: In-Kind	Total Project Cost:
Revenue Sources	\$10,300.00	\$42,456 (Program Income = \$13,000; Donations = \$29,456)	\$2,789	\$15,000	\$70,545
Project Costs (include only direct costs for delivering this service or accomplishing this project)					
Salaries & Wages	10,300	23,189	2,521	7,000	43,010
Employee Benefits		13,192	268		13,460
Contracted Services					
Insurance, Legal & Financial Services		900			900
Direct Client Assistance (include detailed costs of goods/services in narrative)					
Travel / Training					
Office Expenses (include detail for rent, utilities, postage, printing, supplies, etc. in narrative)		560			560
Construction Costs (complete and attach separate construction budget; place totals here- do not duplicate line items)					
Subtotal: Project Costs	10,300	37,841	2,789	7,000	57,930
Other Costs (include other costs needed to implement this service or project)					
Property leasing				8,000	8,000
Farm materials, supplies, equipment		4,615			4,615
Subtotal: Other Costs	0	4,615	0	8,000	12,615
Grand Total:	10,300	42,456	2,789	15,000	70,545

Provide a detailed budget narrative below:

GCH - CDBG Budget Narrative: Orchard Gardens Community Garden & Neighborhood Farm

Wages: \$43,010 (\$36,010 GCH wages + \$7,000 volunteer in-kind)

Farm Operations:

\$22,800 = Farm Manager (1,520 hours at \$15.00/hour)

\$11,200 = Farm Assistant (1,120 hours at \$10.00/hour)

\$ 223 = Operations Manager (15 hours at \$14.85/hour)

\$ 7,000 = Volunteer labor (700 hours at \$10/hour, in-kind)

Community Gardens & Administrative Support:

\$1,787 = Community Gardens Manager (40 hours), Development Coordinator (40 hours), Community Outreach Director (20 hours), Executive Director (25 hours)

Attachment A: Project Budget, continued...

Employee Benefits: \$13,460

\$ 5,402 = Payroll taxes at 15% (GCH employees, above)

\$ 8,058 = Health insurance (farm manager, farm assistant)

Office Expenses: \$560

\$ 50 = Office supplies

\$ 510 = Telephone

Insurance: \$900

\$ 900 = Liability insurance for site

Farm materials, supplies, equipment: \$4,615

\$ 4,215 = Seeds, manure hauling, straw, greenhouse supplies, small equipment, tractor and manure spreader maintenance, repair of farm equipment and greenhouse

\$ 400 = Truck maintenance, fuel, propane

Other in-kind costs: \$8,000

\$ 8,000 = leasing costs: land and barn (HomeWORD, in-kind)

Comments:

Since applying for this grant, expenses for this program increased slightly by \$548. This was due to a change in wages (a drop of \$444, actually), and an increase in health insurance costs. The combination of changes in these two categories caused the overall program budget to jump by \$548 from \$69,997 to \$70,545.

GCH is currently funded by the Thanksgiving Fund for general operations until fourth quarter 2014. A portion of this funding is dedicated to the OG. GCH is also currently funded by the United Way of Missoula County, and the Cadeau, Clif Bar and Pleiades Foundations for community gardens, which includes the community gardens located at Orchard Gardens. We reapplied to United Way for funding beginning July 2014.

Program income from the Orchard Gardens Farm CSA, community garden plot rental fees, on-site farm stand sales and other produce sales is estimated at \$13,000 for 2014. Additional funding to sustain this program will come from individual donor contributions to general operations.