

**COMMUNITY DEVELOPMENT BLOCK GRANT AWARD AGREEMENT
AWARD AGREEMENT 14-08**

This Award Agreement is entered into by the WESTERN MONTANA MENTAL HEALTH CENTER (grant recipient), a Montana non-profit corporation (WMMHC), 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. WMMHC 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, WMMHC and the City agree to the following terms:

1. PURPOSE OF AWARD AGREEMENT AND TRUST INDENTURE

- a) 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 WMMHC 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.
- b) In addition to executing the Award Agreement, WMMHC shall be required to execute a Montana Trust Indenture in order to provide security to the City for performance of the project activities in exchange for this award of funding. The Montana Trust Indenture must be executed before any funds can be disbursed.

2. APPLICATION INCORPORATED BY REFERENCE

WMMHC's application for CDBG assistance is incorporated into this Award Agreement by this reference and the representations made in the application are binding upon WMMHC. If WMMHC 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

- a) WMMHC 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.

b) WMMHC 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. CDBG Supplemental General Conditions and Federal Labor Standards Provisions are included as Attachment D to this Award Agreement, which by this reference is made a part of this Award Agreement.

c) WMMHC expressly agrees to repay to the City any funds advanced to WMMHC under this Award Agreement which WMMHC, 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.

d) The City of Missoula requires that this public facilities project assisted with CDBG funds continue to serve at least 51% low-to-moderate income clients for a period of 15 years. WMMHC expressly agrees to comply with this affordability period requirement. WMMHC acknowledges and agrees that the City will require the repayment of any CDBG funds disbursed for this project if WMMHC does not meet the low-to-moderate income service requirements as specified above. WMMHC agrees to execute a Montana Trust Indenture to secure the City's interests in this property.

4. ADMINISTRATION

The Office of Planning and Grants (OPG), or its successors or assigns, shall be the department which administers this grant on behalf of the City of Missoula. Any reference to OPG indicates an administrative function to be performed by OPG staff or its successors or assigns.

5. EFFECTIVE DATE AND TIME OF PERFORMANCE

This Award Agreement shall take effect upon execution by all the parties. WMMHC may be able to receive reimbursement for costs expended in furtherance of the approved list of activities contained in WMMHC's application for costs incurred between the date of execution of the Real Estate Purchase and Sale Agreement and the date of execution of this Award Agreement. Reimbursement for already expended costs is purely a discretionary decision to be made by OPG 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). The activities to be performed by WMMHC will be completed according to the implementation schedule included as Attachment B to this Award Agreement, which by this reference is made a part of this Award Agreement.

6. SCOPE OF ACTIVITIES

The allocation of CDBG funds awarded to WMMHC by the City must be utilized to achieve and/or perform the identified list of activities set forth in WMMHC's application for CDBG grant assistance. By accepting the award of CDBG funds, WMMHC agrees to perform all activities identified in its CDBG application. The activities to be performed by WMMHC will be completed according to the implementation schedule proposed by WMMHC in its application and included as Attachment B to this Award Agreement, which by this reference is made a part of this Award Agreement. The major components of the approved project activities include, but are not limited to:

- WMMHC will acquire land upon which to construct permanent housing units, known as the John Lynn Apartments, for single, homeless persons, with a priority for those with mental illness and co-occurring disorders and/or HIV/AIDS at 1347 Dakota, Missoula, MT 59801.
- WMMHC will provide housing through the John Lynn Apartments to a minimum of 51% low-to-moderate income clients for a period of 15 years.
- WMMHC will comply with all applicable codes, regulations, and standards.
- WMMHC 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
- WMMHC must designate a representative, who is involved in the project activities for which these CDBG funds have been awarded, as the designated representative to attend qualified fair housing training. WMMHC 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 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 CDBG funds awarded to WMMHC by the City will not exceed \$175,000.00. 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 WMMHC.
- (c) Budget adjustments requests must be approved in advance by OPG. For adjustments between line items of the CDBG portion of Attachment A, in an amount not to exceed \$1,000, OPG’s approval of the Request for Payment form submitted by WMMHC will constitute approval of the requested budget adjustment. Budget adjustment requests in excess of \$1,000 must be submitted to OPG in writing and are subject to an approval review process by OPG.

8. SPECIAL PROJECT START UP CONDITIONS

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

- (a) OPG completes an Environmental Review Record, if applicable; and
- (b) OPG issues a Notice of Release of Funds

9. PROCEDURE FOR DISBURSEMENT OF FUNDS

- (a) The City will pay to WMMHC funds available under this Award Agreement upon approval by OPG of WMMHC's Request for Payment. The City will reimburse WMMHC for approved, eligible and necessary expenses according to the documentation submitted by WMMHC to support the expenditures.

The City will not reimburse WMMHC for any expenses not included in the approved budget or not clearly and accurately supported by WMMHC's records. Any awarded funds not expended by WMMHC 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 WMMHC's completion of Section 8. SPECIAL PROJECT START-UP CONDITIONS. In the event WMMHC is unable to comply with the terms and the conditions of this Award Agreement, any costs incurred will be WMMHC's sole responsibility.
- (c) If the actual total cost of completing the project is less than has been projected by WMMHC in the budget (Attachment A), OPG may, at its discretion, reduce the amount to be provided to WMMHC under this Award Agreement in proportion to the overall savings.
- (d) If OPG determines that WMMHC has failed to satisfactorily carry out its responsibilities under this Award Agreement, OPG may revoke WMMHC's authority to draw against the awarded funds described in this Award Agreement until OPG and WMMHC agree on a plan to remedy the deficiency.
- (e) OPG 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
Missoula Department of Grants and Community Programs
223 W. Alder
Missoula, MT 59802
(406) 258-4980

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

Patricia Kent, Director of Housing and Development
WMMHC
3255 Lt. Moss Road
Fort Missoula
Missoula, MT 59804
(406) 532-8414

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 WMMHC 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 pro-

duced 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) WMMHC 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 WMMHC's offices in Missoula, Montana.
- (b) OPG may monitor and inspect all phases and aspects of WMMHC's performance to determine compliance with the Scope of Activities, and other technical and administrative requirements, including the adequacy of WMMHC's records and accounts. OPG will advise WMMHC of any specific areas of concern and provide WMMHC opportunity to propose corrective actions acceptable to OPG.

13. PROJECT PROGRESS REPORTING

- (a) During the term of this Award Agreement, WMMHC will submit a Project Progress Report to OPG during each quarter for the periods ending September, December, March, and June for the first year of the agreement. Thereafter, a progress report shall be submitted annually, during each year the agreement is in effect. 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) WMMHC will submit the Project Progress Report to OPG 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 OPG. 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

WMMHC will comply with the provisions of the applicable HUD regulations of 24 CFR 570.611; and with sections 2-2-121, 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. WMMHC 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) WMMHC 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 WMMHC's or any subrecipient's performance under this Award Agreement.

- (b) WMMHC 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 WMMHC, its officers, employees, agents or assigns' acts or omissions under this Award Agreement.
- (c) The City agrees to indemnify, hold harmless and defend WMMHC, its officers, agents and employees, from any and all actions, lawsuit, claims, demands, costs, expenses, fines, penalties or liability of any character whatsoever and any costs or expenses, including reasonable attorney's fees and costs incurred, defending claims asserted by HUD against the City related solely to the City's duties to administer this CDBG grant.

20. WORKERS COMPENSATION AND LIABILITY INSURANCE COVERAGE

- (a) Worker's Compensation: WMMHC 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 WMMHC's employees. WMMHC 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 WMMHC's employees, officers or agents. WMMHC shall provide OPG with a certificate of insurance evidencing WMMHC's worker's compensation insurance coverage.
- (b) Liability Insurance: WMMHC 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 WMMHC's activities. The City of Missoula shall have no liability with respect to any and all actions of WMMHC's officers, employees or agents. WMMHC shall provide OPG with a certificate of insurance evidencing liability insurance.

21. AWARD AGREEMENT AMENDMENT

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

22. PROPERTY MANAGEMENT

Title to real property or equipment acquired under a grant or subgrant will vest upon acquisition in WMMHC or subgrantee. WMMHC 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 WMMHC'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 WMMHC for eligible work elements WMMHC has completed and for actual, necessary and eligible expenses incurred by WMMHC as of the revised termination date. The City will give WMMHC 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 WMMHC with a modified project budget.
- (b) **Termination Due to Noncompliance with Award Agreement Terms.** If the City determines that WMMHC 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 WMMHC 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 WMMHC 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 WMMHC 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 WMMHC'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 WMMHC. However, at its discretion, the City may approve requests by WMMHC 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 WMMHC 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 WMMHC'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, 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 WMMHC and their respective successors and assigns. WMMHC 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 WMMHC’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:

WMMHC:

John Engen, Mayor

Carol Brooker, President
Board of Directors

Date: _____

Date: _____

ATTEST:

Martha L. Rehbein, CMC
City Clerk

ATTACHMENT A

Project Budget					
Revenue Sources	Source: CDBG	Source: HOME	Source: wmmhc	Source: chdo	Total Project Cost:
	\$175,000	\$722,000	\$100,000	\$67,500	\$1,064,500
Project Costs (include only direct costs for delivering this service or accomplishing this project)					
Salaries & Wages			20,000		
Employee Benefits					
Contracted Services		18,000		67,500	
Insurance, Legal & Financial Services					
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)					
Construction Costs (complete and attach separate construction budget; place totals here- do not duplicate line items)		704,000			
Subtotal: Project Costs					
Other Costs (include other costs needed to implement this service or project)					
List here and describe in narrative					
land	175,000				
development fee			80,000		
Subtotal: Other Costs					
Grand Total:	175,000	722,000	100,000	67,500	1,064,500
Provide a detailed budget narrative below:					
<p>Land cost is appraised value at 175,000. The construction bid is \$600,000 and there are approximately \$40,000 of additive alternates under consideration. Contingency is a standard 10% until the excavation is complete. Development fee and staff services are based on time allocated to project and estimated project costs.</p>					

ATTACHMENT A

CONSTRUCTION BUDGET					
For Construction Projects Only					
Revenue Sources	Source: CDBG	Source: HOME	Source: wmmhc	Source: Gc chdo	TOTAL PROJECT COST
	\$175,000	\$722,000	\$100,000	\$67,500	\$1,064,500
Construction Costs (include all costs directly related to delivering this service or accomplishing this project)					
LAND / BUILDING / ACQUISITION					
Land	175,000				175,000
Existing Structure					
Demolition					
Homebuyer's Assistance					
TOTAL LAND/BLDG/ACQUISITION					
SITE WORK					
Site Work					
Off-Site Improvement					
Environmental				2,500	2,500
Other					
TOTAL SITE WORK				2,500	
CONSTRUCTION and REHABILITATION					
New Building		640,000			640,000
Rehabilitation					
Accessory Structures					
contingency		64,000			64,000
TOTAL CONST. & REHAB.		704,000			704,000
PROFESSIONAL WORK and FEES					
Architect Design		18,000		62,000	80,000
Architect Supervision					
Attorney, Real Estate					
Engineer/Surveyor				3,000	
Other					
TOTAL PROF. WORK & FEES		18,000		65,000	80,000

ATTACHMENT A

CONSTRUCTION BUDGET continued....					
	Source: CDBG	Source:	Source:	Source:	TOTAL PROJECT COST
CONSTRUCTION INTERIM FEES					
Hazard & Liability Insurance					
Credit Report					
Construction Interest					
Origination Points					
Discount Points					
Inspection Fees					
Title & Recording					
Legal Fees					
Taxes					
Other					
TOTAL CONSTRUCTION INTERIM FEES					
PERMANENT FINANCING FEES					
Credit Report					
Discount Points					
Origination Fees					
Title & Recording					
Legal Fees					
Prepaid MIP					
Other					
TOTAL FINANCING FEES					
PROJECT RESERVES					
Rent-Up Reserve					
Operating Reserve					
Replacement Reserve					
Escrow					
Other					
TOTAL PROJECT RESERVES					
GRAND TOTAL ALL PROJECT COSTS	175,000	722,000	100,000	67,500	1,064,500

ATTACHMENT B

Implementation Schedule

Month	Activity
Advertise for Architect/Engineer	August 11, 18, 2013
Proposal (RFP) due	August 25, 2014
Contract Award	August 25, 2014; (one proposal received)
Complete PAR	November 2013
Submit Grant Applications	November 2013
Grant Awards	January-Feb. 2014
Construction Drawings 100% complete	February 2014
Public Bid:	
Advertise	March 16, 23, 30, 2014
Last Addendum	April 1, 2014
Open Bids	April 25, 2014
Construction Complete	December 2014

ATTACHMENT C

Missoula, Montana TRUST INDENTURE

THIS TRUST INDENTURE, made this ____ day of _____, 2014, between WMMHC, its successors and assigns, whose mailing address is 3255 Lt. Moss Road, Fort Missoula, Missoula, MT as GRANTORS; City Attorney Jim Nugent, an attorney licensed to practice law in the State of Montana, whose address is 435 Ryman, Missoula, MT 59802 as TRUSTEE; AND the City of Missoula, a Municipal Corporation, organized under the laws of the State of Montana, whose address is 435 Ryman, Missoula, MT 59802 as BENEFICIARY.

WITNESSTH: That Grantor hereby irrevocably GRANTS, BARGAINS, SELLS, CONVEYS AND WARRANTS TO TRUSTEE IN TRUST, never the less, WITH POWER OF SALE that certain real property, which does not exceed forty (40) acres in area, situated in the County of Missoula, State of Montana, particularly described as follows:

Lots 9, 10, 11, and 12 in Block 2 of Cook's Addition, a platted subdivision in the City of Missoula, Missoula County, Montana, according to the official recorded plat thereof;

Together with the North half of the vacated alley through said Block 2 lying adjacent to said lots 9, 10, 11, and 12;

And together with the South one-half of vacated Dakota Street lying between Block 2, Cook's Addition and Block 20, Eddy's Addition, adjacent to Lots 9 through 11, Inclusive, to the extent that grantor has an interest pursuant to City Resolution No.2557 dated October 11, 1965, vacating Dakota Street and the alley in Block 2 and said resolution was amended by Resolution No 3095, dated March 12, 1973 and vacated only portions of street and alley. Recording reference in Book 807 at Page 1024 Micro Records.

TOGETHER with all improvements now or hereafter erected on the property, and all easements, rights appurtenances, rents (subject however to the rights and authorities given herein to Beneficiary to collect and apply such rents), royalties, mineral oil and gas rights and profits, water, water rights, and water stock and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property by this Trust Indenture; and all of the foregoing, together with said property (or the leasehold estate if this Deed of Trust is on a leasehold) are herein referred to as the "Property";

FOR THE PURPOSE OF SECURING the performance of Grantor's obligations as set forth in the Award Agreement dated _____, which provision specifically provides as follows:

Section 3. ACCEPTANCE OF CDBG PROGRAM REQUIREMENTS

Section 3.d.

d) The City of Missoula requires that this public facilities project assisted with CDBG funds continue to serve at least 51% low-to-moderate income clients for a period of 15 years. WMMHC expressly agrees to comply with this affordability period requirement. WMMHC acknowledges and agrees that the City will require the repayment of any CDBG funds disbursed for this project if WMMHC does not meet the low-to-moderate income service requirements as specified above. WMMHC agrees to execute a

Montana Trust Indenture to secure the City's interests in this property.

Grantor and Beneficiary agree that the assistance to be provided by Beneficiary to Grantor for the project described in the Award Agreement will be in the amount of One Hundred Seventy Five Thousand and no/100 Dollars (\$175,000.00). Further, Grantor is required to continue to serve at least 51% low-to-moderate income clients for a period of 15 years. Therefore, this Trust Indenture secures the period of affordability.

Grantor is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property, that the Property is unencumbered, (except to the extent allowed by the Award Agreement), and that Grantor will warrant and defend generally the title to the property against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Beneficiary's interest in the Property.

TO PROTECT THE SECURITY OF THIS TRUST INDENTURE, AND FOR OTHER PURPOSES, GRANTOR AGREES:

1. To pay before delinquent all taxes and assessments, including interest and penalties, affecting said promises and improvements. The failure of Grantor to make any such payments shall constitute a default under this trust.
2. Grantor shall keep and maintain the improvements so as to provide security for the payment of any loan to which this Trust Indenture shall be subordinated. Grantor shall keep the property in good condition and repair, and shall not remove or demolish any building thereon. Grantor shall complete and restore promptly in a good and workmanlike manner any building which may be damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefore and shall comply with all laws, covenants and restrictions affecting said property. Grantor further agrees to allow Beneficiary to inspect the property at all times during and subsequent to improvement, providing such inspection shall be done during normal working hours.

IT IS MUTUALLY AGREED THAT:

1. The rights of Beneficiary hereunder shall be subordinate to all rights and security interests granted to a construction Lender or Permanent Lender to the Project, or the Grantor for the primary financing of the acquisition or rehabilitation of the property which is the subject of the Award Agreement. The parties agree that they will execute any additional documents necessary to subordinate the interest of the Beneficiary in favor of such other construction lender, permanent lender, or the Grantor.

The parties acknowledge that their primary purpose of this Award Agreement is:

The City has been awarded entitlement funds under the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program. 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. This objective includes providing support for public facilities that house programs that serve low-to-moderate income persons.

The Borrower is developing a project to acquire land and construct permanent housing units, known as the John Lynn Apartments, for single, homeless persons, with a priority for those with mental illness and co-occurring disorders and/or HIV/AIDS at 1347 Dakota, Missoula, MT 59801. The Borrower submitted an application for CDBG funds for the remodeling project, which was approved by the Missoula City Council on

June 2, 2014.

2. Without affecting the liability of any person, including Grantor, for the payment of any indebtedness secured hereby, or the lien of this Trust Indenture on the remainder of the property for the full amount of any indebtedness unpaid, Beneficiary and Trustee are respectively empowered as follows: Beneficiary may from time to time in writing and without advance notice:
 - (a) Release any person liable for payment of any of the indebtedness,
 - (b) Extend the time or otherwise alter the terms of payment of any of the indebtedness,
 - (c) Release any property securing the indebtedness.

Trustee may, at any time and from time to time, upon written request of Beneficiary:

- (a) Consent to the making of any map or plat of the property,
- (b) Join in any subordination or other agreement affecting this Trust Indenture or lien or charge thereof,
- (c) Reconvey, without warranty, any and all property.

Trustee may, at any time and from time to time, upon written request of Grantor and Beneficiary, join in granting any easement or creating any restrictions thereon.

3. Upon written request of Beneficiary stating that there has been full performance of Grantor's obligations set forth above, Trustee shall reconvey to Grantor, without warranty, the property then held hereunder.
4. If Beneficiary invokes the power of sale, Beneficiary shall give Trustee written notice of the occurrence of an event of default and of Beneficiary's election to cause the property to be sold. Beneficiary or Trustee shall record a notice of sale in Missoula County, and Trustee shall mail copies of such notice in the manner prescribed by applicable law to Grantor and other persons prescribed by applicable law. After the lapse of such time as may then be required by law following the recordation of said notice of default and of election to cause said property to be sold, and notice of default and notice of sale having been given as then required by law, Trustee, or its attorney, without demand on Grantor, shall sell said property on the date and at the time and place designated in said notice of sale, either as determined (but subject to any statutory right of Grantor to direct the order in which such property, if consisting of several known lots or parcels, shall be sold) at public auction to the highest bidder, the purchase price payable in cash in lawful money of the United States at the time of sale. The person conducting the sale may, for any cause he deems expedient, postpone the sale for a period not exceeding fifteen (15) days by public proclamation by such person at the time and place fixed in the notice of sale, and no other notice of the postponed sale need be given. Trustee shall execute and deliver to the purchaser its deed conveying said property so sold, but without any covenant of warranty, express or implied. The recitals in the deed of any matters of facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary (but excluding Trustee), may bid at the sale. After deducting all costs and expenses of exercising the power of sale and of the sale, including cost of search and evidence of title, advertising and recording expense, documentary taxes and Trustee's and Attorneys' fees, Trustee shall apply the proceed of sale to payment of all amounts secured hereby and due hereunder, including all sums expended by the Trustee and Beneficiary, or either of them, with accrued interest thereon at the statutory rate of interest pursuant to Section 25-9-205, MCA of ten percent (10%) per annum from

the date of expenditure thereof, and the surplus, if any, to the person or persons legally entitled thereto; provided that the Trustee, in its discretion, may deposit such surplus with the Missoula County Clerk and Recorder as the county where the sale took place and the county in which the property is located.

5. Grantor agrees to surrender possession of the hereinabove described trust property to the purchaser at the aforesaid sale on the tenth (10th) day of following said sale, in the event such possession has not previously been delivered by Grantor.
6. Grantor's right to reinstate. Notwithstanding Beneficiary's declaration of the sums secured by this Trust Indenture, Grantor shall have the right to have any proceedings begun by Beneficiary to enforce this Trust Indenture discontinued at any time prior to the earlier to occur of (i) sale of the property pursuant to the power of sale contained in this Trust Indenture or (ii) entry of a judgment enforcing this Trust Indenture if: (a) Grantor pays Beneficiary all sums which would be then due under this Trust Indenture; (b) Grantor cures all breaches of any other covenants and agreements of Grantor contained in this Trust Indenture; (c) Grantor pays all reasonable expenses incurred by Beneficiary and Trustee in enforcing the covenants and agreements of Grantor contained in this Trust Indenture and in enforcing Beneficiary's and Trustee's remedies as provided in Paragraphs 6 and 7 hereof, including but not limited to, reasonable attorneys' fees; and (d) Grantor takes such action as Beneficiary may reasonably require to assure that the lien of this Trust Indenture, Beneficiary's interest in the property and Grantor's obligation to pay the sums secured by this Trust Indenture shall continue unimpaired. Upon such payment and cure by Grantor, this Trust Indenture and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.
7. Upon the occurrence of any default hereunder and the expiration of the thirty (30) day notice as provided in paragraph 4 above, Beneficiary shall have the option to declare all sums secured hereby due and payable and foreclose this Trust Indenture in the manner provided by law for the foreclosure of mortgages on real property, and Beneficiary shall be entitled to recover in such proceedings all costs and expenses incident thereto, including reasonable attorneys' fees in such amount as shall be fixed by the court.
8. Except as may be otherwise provided herein, Grantor agrees to pay to Beneficiary or Trustee the costs and expenses, including reasonable attorneys' fees, incurred by either of them in instituting, prosecuting or defending any court action in which Grantor does not prevail, if such action involved the interpretation hereof or performance hereunder by a party hereto or the breach of any provision hereof by a party hereto, including but not limited to any action to obtain possession of the above described property after exercise of the power of sale granted hereunder.
9. This Trust Indenture shall apply to inure to the benefit of and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns.
10. Trustee accepts this Trust when this Trust Indenture, duly executed and acknowledged, is made public record as provided by law. Trustee is not obligated to notify any party hereto of a pending

sale under any other trust indenture of any action or proceeding in which Grantor, Beneficiary, or Trustee shall be a party, unless brought by Trustee.

11. This Trust Indenture is made within the state of Montana pursuant to the Small Tract Financing Act of Montana and is not made or taken in substitution for any mortgage in existence on the effective date of said Act.

12. Grantor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to it at the address hereinabove set forth.

13. Grantor hereby waives all benefit or advantage to which they may be entitled to by virtue of any homestead or other exemption law now or hereafter in force in the State of Montana.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed this _____ day of _____, 2014.

BORROWER:

WMMHC
3255 Lt. Moss Road
Fort Missoula
Missoula, Montana 59804

BY:

Carol Brooker, Board President

(SEAL)

STATE OF MONTANA)
)S.S.
County of Missoula)

On this _____ day of _____, _____ personally appeared _____ known to me to be the person whose name is subscribed to this instrument, and acknowledged that he executed the same.

Notary Public
Residing at _____
My commission expires _____

(SEAL)

CITY OF MISSOULA

John Engen, Mayor

ATTEST:

Martha L. Rehbein, CMC
City Clerk

Attachment D

CDBG SUPPLEMENTAL GENERAL CONDITIONS

The following Supplemental General Conditions are hereby made a part of this Award Agreement and shall supplement and/or supersede any articles of these specifications in conflict therewith.

Any subsequent and/or addenda issued after these specifications have been prepared shall supplement and/or supersede any articles of these specifications.

1. Montana Contractor Registration Requirements
2. Contractor's License Fee
3. Preconstruction Conference
4. Reports and Information
5. Access to Records
6. Contract Pricing
7. Federal Labor Standards Provisions (HUD-4010 Form)
8. Schedule of Minimum Hourly Wage Rates (Davis-Bacon Wage Determination)
9. Equal Opportunity Provisions
 - a. Equal Employment Opportunity (Executive Order 11246)
 - b. Title VI of the Civil Rights Act of 1964
 - c. Section 109 of the Housing and Community Development Act of 1974
 - d. Section 3 of the Housing and Community Development Act of 1968
 - e. Minority/Women Business Enterprise
 - f. Nondiscrimination Provision in all Public Contracts
10. Uniform Federal Accessibility Standards (UFAS)
11. Compliance with Federal Clean Air and Water Acts
12. Contractor Eligibility

1. MONTANA CONTRACTOR REGISTRATION REQUIREMENT

MCA 39-9-201 through 39-9-211 provides information about contractor registration requirements with the State of Montana. Contractors and any of the contractor's subcontractors doing work on a project will be required to

obtain registration with the Montana Department of Labor and Industry (DLI). Forms for registration are available from the Department of Labor and Industry, P. O. Box 8011, 1805 Prospect, Helena, Montana 59604-8011. Information on registration can be obtained by calling 1-406-444-7734.

Contractors are not required to have registered with the DLI prior to bidding on this project, but must have registered prior to execution of the Construction Agreement. All laborers and mechanics employed by the contractor or subcontractors in performance of the construction work shall be paid wages at rates as may be required by the federal Davis Bacon prevailing wage and reporting requirements and the State of Montana. The contractor must ensure that employees and applicants for employment are not discriminated against because of their race, color, religion, sex, national origin, sexual orientation, gender identity or gender expression.

2. CONTRACTOR'S LICENSE FEE

Pursuant to Section 15-50-206(2), MCA, the Owner is required to withhold one percent of all payments due the Contractor and is required to transmit such moneys to the Montana Department of Revenue as part of the public contractor's license fee. In like fashion, the Contractor is required to withhold one percent from payments to subcontractors, pursuant to Section 15-50-206 (1), MCA.

3. PRECONSTRUCTION CONFERENCE

After the contract(s) have been awarded, but before the start of construction, a conference will be held for the purpose of discussion requirements on such matters as project supervision, coordination with city or county officials, on-site inspections, progress schedules and reports, payrolls, payments to contractors, contract change orders, insurance, safety and other items pertinent to the project. The contractor shall arrange to have all supervisory personnel connected with the project on hand to meet with representatives of the engineer and owner to discuss any problems anticipated.

4. REPORTS AND INFORMATION

The contractor, at such times and in such forms as the owner may require, shall furnish the owner such periodic reports as it may request pertaining to the work or services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this contract.

5. ACCESS TO RECORDS

The owner, the Inspector General of the United States, the U.S. Department of Housing and Urban Development, the U.S. Department of Labor, the General Accounting Office, and the City of Missoula shall be permitted by the contractor to have full access to, and right to examine any pertinent books, documents, papers and records of the contractor involving transactions related to this contract, during the period of the project and for three (3) years from the date of final payment or until all findings have been resolved to the satisfaction of the State of Montana.

6. CONTRACT PRICING

The cost plus a percentage of cost and percentage of construction cost method of contracting shall not be used.

7. FEDERAL LABOR STANDARDS PROVISIONS

Not applicable to this project.

8. SCHEDULE OF MINIMUM HOURLY WAGE RATES

Not applicable to this project.

9. EQUAL OPPORTUNITY PROVISIONS

- (a) Equal Employment Opportunity (Executive Order 11246). During the performance of this contract, the Contractor agrees as follows:
- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection of training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
 - (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
 - (3) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Department's contracting officer advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
 - (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
 - (6) In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rules, regulations, or order of the Secretary of Labor, or as otherwise provided by law.
 - (7) The contractor will include the provisions of paragraphs 1 through 7 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that each provision will be binding upon each subcontractor or vendor. The contractor will

take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the contractor becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

- (b) Title VI of the Civil Rights Act of 1964. Provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- (c) Section 109 of the Housing and Community Development Act of 1974. "No person in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity."
- (d) Section 3 of the Housing and Community Development Act of 1968. The contractor will ensure that to the greatest extent feasible opportunities for training and employment arising in connection with this CDBG-assisted project will be extended to project area residents. Further, the contractor will, to the greatest extent feasible, utilize business concerns located in or substantially owned by residents of the project area, in the award of contracts and purchase of services and supplies.
- (e) Minority Business Enterprise. Under the provisions of Executive Order 11246 contractors on federally-funded projects are required to take affirmative steps to assure that minority businesses are used when possible as sources of supplies, equipment, construction and services. Additionally, the contractor must document all affirmative steps taken to solicit minority businesses and forward this documentation along with the names of the minority subcontractors and suppliers to the owner upon request.
- (f) Nondiscrimination Provision in all Public Contracts Pursuant to Section 49-3-207, MCA, the Contractor certifies that all hiring will be on the basis of merit and qualifications and there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap, or national origin.

10. **UNIFORM FEDERAL ACCESSIBILITY STANDARDS (UFAS)**

All design specifications for the construction of any building shall provide access to the physically handicapped in accordance with the Uniform Federal Accessibility Standards and HUD regulations 24 CFR Part 8, "Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of HUD".

11. **CERTIFICATION OF COMPLIANCE WITH FEDERAL CLEAN AIR AND WATER ACTS**

(Applicable to federally assisted construction contracts and related sub-contracts exceeding \$100,000.)

During the performance of this contract, the contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act,

as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR 15, as amended.

12. **CONTRACTOR ELIGIBILITY**

The Contractor certifies that the Contractor's firm and the firm's principals are not debarred, suspended, voluntarily excluded, or otherwise ineligible for participation in federally assisted contracts under Executive Order 12549, "Debarment and Suspension" (24 CFR 24.505).