

**SUBRECIPIENT AGREEMENT**

**AGREEMENT BETWEEN**

**City of Billings, the "City", PO Box 1178, Billings, MT  
AND  
ORGANIZATION, the "Subrecipient", ADDRESS**

**Fair Housing Initiatives Program  
Education and Outreach  
CDFA 14.416**

**May 1, 2011 through April 30, 2012**

WHEREAS, the City has applied for and received funds from the United States Department of Housing and Urban Development (HUD) under the Fair Housing Initiatives Program (FHIP), Fair Housing Education and Outreach Initiative (EOI).

WHEREAS, the City wishes to engage the Subrecipient to assist the City in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

**I. SCOPE OF SERVICE**

*A. Activities*

The Subrecipient will be responsible for administering the Fair Housing Initiative Program in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Fair Housing Initiative Program (FHIP) Education and Outreach, established formally in the Statement of Work and the associated Budget:

**INSERT STATEMENT OF WORK SECTION HERE**

- 1. Organizational Changes:** If the Subrecipient organization changes its name, merges with other organizations, plans any major organizational changes during the course of this grant, or cannot fulfill all duties as identified in the Statement of Work, the Subrecipient shall give advance notice of any proposed changes.
- 2. Mandatory FHIP-Related Activities:** By signing this agreement, the Subrecipient acknowledges responsibility for the following additional FHIP-related activities:
  - a) FHIP-funded projects must include the following related activities: interviewing potential victims of discrimination; analyzing housing-related issues; conducting mediation; referral to administrative enforcement agencies; and disseminating information about fair housing laws.
  - b) FHIP-funded projects must address housing discrimination on all bases (race, color, religion, sex, disability, familial status and national origin). The Montana Human Rights Act prohibits discrimination based on creed, marital status and age.
- 3. Official Products of Work for Public Benefit:** All interim and final reports and information, data analyses, special methodology, findings, and their related documents and work products including reports, work sheets, survey instruments, computer tapes, audio or video materials, and any other physical materials and products produced directly under the Statement of Work are considered Official Products of Work, owned by the Government and held for the benefit of the public.
- 4. Advance Approval for Official Products of Work:** All Official Products of Work must be submitted to the City at least two weeks in advance in order to obtain advance approval from the Government Technical Representative in advance, including surveys, brochures, press releases, formal announcements, videos, other planned written issuances containing information concerning this grant, etc.

5. **Mandatory Disclaimer:** All official products created as a result of implementation of the Statement of Work, quotations thereof, and any independent products and special products paid out of FHIP funds, when published by the City or Subrecipient shall contain the following acknowledgement and disclaimer:

*“The work that provided the basis for this publication was supported by funding under a grant with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the Federal Government.”*

6. **HUD Publication:** HUD reserves the right to reproduce, publish or otherwise use work created through the Statement of Work and / or funded through this grant for Federal purposes (24 CFR 84.36).

#### *B. Levels of Accomplishment – Goals and Performance Measures*

INSERT LOGIC MODEL SECTION HERE

Subrecipients failing to comply with the terms set forth in the terms and conditions of this Agreement will be liable for such sanctions as may be authorized by law, including repayment of improperly used funds and termination of further participation in City grants / projects.

#### *C. Staffing*

Staff assigned to undertake implementation of above tasks include:

- Staff Name, Title, Duties
- Staff Name, Title, Duties
- Staff Name, Title, Duties

The Subrecipient shall notify the City if any of the above personnel has been convicted of a felony or other crime involving fraud or perjury. The Subrecipient is required to maintain personnel records for employees conducting grant activities for a period of no less than five (5) years.

#### *D. Performance Monitoring*

The City will monitor the performance of the Subrecipient against goals and performance standards as stated above. Substandard performance as determined by the City will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the City, Agreement suspension or termination procedures will be initiated.

### **II. TIME OF PERFORMANCE**

Services of the Subrecipient shall start on May 1, 2011 and shall end on April 30, 2012.

### **III. BUDGET**

INSERT BUDGET HERE

### **IV. PAYMENT**

It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed the total FHIP budget indicated above. Quarterly Request for Reimbursements may be submitted to the City for activities completed as identified in the Statement of Work. Reimbursement of eligible expenses shall be made in accordance with approved performance and reporting. Payments may be contingent upon certification of the Subrecipient’s financial management system in accordance with the standards specified in 24 CFR 84.21.

### **V. NOTICES**

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice

delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communication and details concerning this Agreement shall be directed to the following Agreement representatives:

**City:** Brenda Beckett, Community Development Manager

**Subrecipient:** NAME, TITLE

## **VI. GENERAL CONDITIONS**

### *A. General Compliance*

The Subrecipient agrees to comply with the requirements of 24 CFR Part 125 (HUD regulations concerning FHIP). The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this Agreement. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available and will not duplicate activities funded by other funding sources.

### *B. "Independent Contractor"*

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Subrecipient is an independent contractor.

### *C. Hold Harmless*

The Subrecipient shall hold harmless, defend and indemnify the City from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or subject matter called for in this Agreement.

The City shall hold harmless, defend and indemnify the Subrecipient from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or subject matter called for in this Agreement.

### *D. Insurance & Bonding*

The Subrecipient shall carry sufficient insurance coverage to protect Agreement assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City.

### *E. City Recognition*

The Subrecipient shall insure recognition of the role of the City in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source and City facilitation of this grant. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

### *F. Amendments*

The City or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the City's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the City or Subrecipient from its obligations under this Agreement. The City may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both City and Subrecipient.

### *G. Suspension or Termination*

In accordance with 24 CFR 85.43, the City may suspend or terminate this Agreement if the Subrecipient materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time.
2. Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement.
3. Ineffective or improper use of funds provided under this Agreement.
4. Submission by the Subrecipient to the City reports that are incorrect or incomplete in any material respect.

Failure of the Subrecipient to make reasonable efforts to complete the activities to finalize the project within timeframes set forth in the Statement of Work may result in termination of this Agreement.

In accordance with 24 CFR 85.44, this Agreement may also be terminated for convenience by either the City or the Subrecipient, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the City determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the City may terminate the award in its entirety.

## **VII. ADMINISTRATIVE REQUIREMENTS**

### *A. Financial Management*

1. **Accounting Standards:** The Subrecipient agrees to comply with 24 CFR 84.21–28 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, submit and maintain necessary source documentation for all costs incurred.
2. **Cost Principles:** The Subrecipient shall administer its program in conformance with OMB Circulars A-122, “Cost Principles for Non-Profit Organizations,” or A-21, “Cost Principles for Educational Institutions,” as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

### *B. Documentation and Record Keeping*

The Subrecipient shall maintain all records that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

1. Records providing a full description of each activity undertaken.
2. Financial records as required by 24 CFR 84.21–28.

### *C. Records Retention*

The Subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of five (5) years. The retention period begins on the date of the submission of the City’s annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

### *D. Client Data*

The Subrecipient shall collect, report and maintain client demographic data for services provided. Such data shall include, but not be limited to: client name; description of service provided; race; ethnicity; and other demographic data when supplied voluntarily by the client. Such information shall be made available to City staff and grant monitors or their designees for review upon request. This information will be supplied to City quarterly utilizing approved HUD format.

### *E. Disclosure*

The Subrecipient understands that client information collected under this Agreement is private and the use or disclosure of such information and must be directly connected with the administration of the City’s or Subrecipient’s responsibilities with respect to services provided under this Agreement unless

written consent for distribution of client information is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

#### *F. Grant Close-Out*

The Subrecipient's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, and accounts receivable to the City), and determining the custodianship of records.

#### *G. Audits & Inspections*

All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the City, HUD, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Subrecipient audits and OMB Circular A-133 and / or A-122 as applicable.

#### *H. Reimbursement Procedures*

The City will reimburse the Subrecipient funds available under this Agreement based upon information submitted by the Subrecipient and consistent with the budget identified herein and City policy concerning payments. Payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund balances available in Subrecipient accounts. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of the Subrecipient. Requests for Reimbursement made without accompanying required client data, receipt for expenditures, and / or sufficient evidence of activity completion as identified in the Statement of Work may be withheld until compliance is garnered.

#### *I. Progress Reports*

The Subrecipient shall submit regular Progress Reports to the City in the form, content, and frequency as requested and required by the City.

#### *J. Procurement Compliance*

The Subrecipient shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein.

#### *K. OMB Standards*

Unless specified otherwise within this agreement, the Subrecipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84.40–48.

#### *L. Travel*

No travel expenses will be reimbursed through this Grant for travel unless travel related to fair housing education has been approved in advance by the City and the Government Technical Representative. Advance notice and request for travel must be received by City staff six weeks in advance of travel dates, as required by City policy.

#### *M. Use and Reversion of Assets*

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 which include but are not limited to the following:

1. The Subrecipient shall transfer to the City any FHIP funds or program income resulting from FHIP funds investment on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

## **VIII. PERSONNEL & PARTICIPANT CONDITIONS**

### *A. Civil Rights*

1. **Compliance:** The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.
2. **Nondiscrimination:** The Subrecipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.
3. **Access to Records:** The Subrecipient shall furnish all information and reports required herein and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

### *B. Employment Restrictions*

1. **Prohibited Activity:** The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.
2. **Assignability:** The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Subrecipient from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.
3. **Hatch Act:** The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.
4. **Conflict of Interest:** The Subrecipient agrees to abide by the provisions of 24 CFR 84.42, which include (but are not limited to) the following:
  - a) The Subrecipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.
  - b) No employee, officer or agent of the Subrecipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
5. **Anti-Lobbying Certification:** By signing this agreement, the Subrecipient hereby certifies the following:
  - a) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  - b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
  - c) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

6. **Drug Free Workplace:** The Subrecipient certifies that it will maintain or continue to provide a drug-free workplace.
7. **Seat Belt Usage:** In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, the Subrecipient is encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.
8. **Copyright:** If this Agreement results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes as long as the subject invention is disclosed to HUD within appropriate protocols.
9. **Religious Activities:** The Subrecipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities such as worship, religious instruction, or proselytization.

#### **IX. ENVIRONMENTAL CONDITIONS**

Funds under this program have been determined to be categorically exempt activities.

#### **X. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect. Any future amendments or alterations in federal, state, or local law, regulation or requirement will be applied to this agreement.

#### **XI. SECTION HEADINGS AND SUBHEADINGS**

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

#### **XII. WAIVER**

The City's failure to act with respect to a breach by the Subrecipient does not waive its right to act at a later date and act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

#### **XIII. ENTIRE AGREEMENT**

This agreement constitutes the entire agreement between the City and the Subrecipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Subrecipient with respect to this Agreement.

**XIV. SIGNATURES**

<b>Name, Title Organization</b>	<b>Name, Title Organization</b>
<b>Signature:</b>	<b>Signature:</b>
STATE OF MONTANA                    ) : ss. County of Yellowstone                )	
On the _____ day of _____, 2011, before me, _____, a Notary Public for the State of Montana, personally appeared <b>NAME</b> and <b>NAME</b> , known to me to be the <b>TITLE</b> and <b>TITLE</b> respectively of the <b>ORGANIZATION</b> , and whose names are subscribed to the within instrument and acknowledged to me that they executed the same.	
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.	
<i>Seal:</i>	_____ Printed Name: _____ Notary Public for the State of Montana Residing At: _____ My Commission Expires: _____

<b>Christina F. Volek, City Administrator City of Billings</b>	<b>Cari Martin, City Clerk City of Billings</b>
<b>Signature:</b>	<b>Signature:</b>
STATE OF MONTANA                    ) : ss. County of Yellowstone                )	
On this ____ day of _____, 2011, before me, a Notary Public for the State of Montana, personally appeared CHRISTINA F. VOLEK and CARI MARTIN, known to me to be the City Administrator and City Clerk respectively of the City of Billings, and whose names are subscribed to the within instrument and acknowledged to me that they executed the same.	
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.	
<i>Seal:</i>	_____ Printed Name: _____ Notary Public for the State of Montana Residing At: _____ My Commission Expires: _____
Approved as to form:	_____ Brent Brooks, City Attorney