

SUBRECIPIENT AGREEMENT

Between:

City of Billings
A Montana Municipal Corporation
whose address is
P.O. Box 1178, Billings, Montana 59103
(the “City”)

And

Homeword, Inc.
a Montana Non-Profit Organization
who address is
1535 Liberty Lane, Ste 116A, Missoula, Montana 59808
(the “Subrecipient”)

Project Location: 115 North 24th Street, Billings, Montana 59101

This Subrecipient Agreement (the “Agreement”), entered on **DATE**, by and between, the following subrecipient of Community Development Block Grant (“CDBG”) funds, to wit: **Homeword, Inc.** (the “Subrecipient”), and the **City of Billings**, as the City and provider of such funds pursuant to a CDBG award, for the affordable housing project located at **115 North 24th Street, Billings, Montana** (the “Project”), made by the City of Billings’ Community Development Division under provisions of Title I of the [Housing and Community Development Act of 1974](#), as amended (the “Act”).

It is mutually agreed that no funds will be disbursed prior to the date of the execution of this Development Agreement (the “Agreement”). This Agreement will remain in effect for the Term of this agreement as defined in Scope of Work / Eligibility below.

Any provisions contained herein which are found to be inconsistent with the Act, federal, state or local laws, and implementing regulations, will be deleted or appropriately modified as directed by Community Development staff and in no case shall any such inconsistency, whether remedied or not, impair the remainder.

I. PURPOSE

The purpose of this written Agreement is to provide **\$750,000** in CDBG funding to the Subrecipient for their use in carrying out project activities described in the application and approved under the City’s Affordable Housing Development Program.

Under this Agreement, the City is still responsible for the overall administration and monitoring of the use of CDBG funds in accordance with program requirements.

II. APPLICATION INCORPORATED BY REFERENCE

The Subrecipient’s application for CDBG assistance **(copy attached)** is incorporated into this Agreement by this reference and the representations made in the application are binding upon the Subrecipient.

III. ACCEPTANCE OF CDBG PROGRAM REQUIREMENTS

The Subrecipient, their contractors, and subcontractors will comply with all current requirements now in effect or as they may be amended during the term of this agreement:

- A. [CDBG Laws and Regulations](#);
- B. [Part 570 – Community Development Block Grants](#), Housing and Urban Development (HUD);
- C. Federal, [State](#), and [local government](#) laws, Executive Orders, regulations, administrative directives, ordinances, resolutions, and procedures;
- D. Office of Management and Budget’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Super / Omnibus Circular codified at [2 CFR Part 200](#);
- E. Civil Rights and Fair Housing Accessibility; Employment and Contracting Opportunities requirements at 24 CFR [570.601](#), [570.602](#), [570.607](#), [570.614](#), [Subpart J](#) and [Subpart K](#). Subrecipient shall comply with the Fair Housing Act, HUD regulations, and the Montana Human Rights Act prohibiting employment, contracting, and beneficiary discrimination based on:

Disability - includes people with HIV / AIDS and people in recovery from alcohol / drugs; Race / Color; Religion; Religious Belief; Sex - includes protection against sexual harassment; Familial Status - includes the presence of children under the age of 18 and/or pregnancy; National Origin; Marital Status; Creed; and Age;

- F. [Section 3 \(Part 75\)](#): To the greatest extent possible, provide training, employment, contracting and other economic opportunities to low-income persons;
- G. MBE / WBE at [2 CFR 200.321](#): Job and contract opportunity outreach must ensure inclusion of businesses owned by minorities and women. Records must be maintained in compliance with [24 CFR 570.506\(g\)](#);
- H. Labor Standards at [24 CFR 570.603](#): Applies to all non-volunteer labor financed in whole or in part with CDBG;
- I. Subrecipient must not contract with, hire, or employ an individual in the United States knowing that the contractor or individual is not authorized with respect to such employment;
- J. Subrecipient must provide liability insurance coverage, fidelity bond coverage for principal staff handling the organization's accounts, and payment of payroll taxes and worker's compensation insurance coverage, as required by Federal and State law;
- K. Conflict of Interest at [24 CFR 570.611](#), Subrecipient must maintain procedures to prohibit employees, consultants, board members, officers, and elected or appointed officials from using their positions for a purpose that has the appearance of being motivated by a desire for private gain for themselves or others, whether real or apparent. These procedures must apply to all aspects of project administration, including the procurement of supplies, equipment, construction and services;
- L. Projects involving over \$2,000 in CDBG funding and eight or more residential units must comply with [Davis-Bacon prevailing wage rates](#) and regulations, including submission of weekly certified payrolls and payroll deductions;
- M. [Lead-Based Paint](#) requirements ([24 CFR 570.608](#)).;
- N. [Construction and accessibility standards referenced](#) in [Section 504 of the Rehabilitation Act](#);
- O. [Copeland "Anti-kickback" Act](#), which prohibits a federal building contractor or subcontractor from inducing an employee into giving up any part of the compensation that they are entitled to under the terms of their employment contract;
- P. Contract Work Hours and Safety Standards Act ([29 CFR Part 4, 5, 6 and 8](#); and [29 CFR Part 70 to 240](#))
- Q. National Flood Insurance Program ([24 CFR 570.605](#));
- R. Floodplain Management ([24 CFR Part 55](#));
- S. Relocation, Real Property Acquisition, and One-for-One Housing Replacement ([24 CFR 570.606](#));
- T. Political Activity ([24 CFR 570.207\(a\)\(3\)](#));
- U. [City of Billings](#) Building, Zoning, and Fire Safety Codes and;
- V. All requirements of the [Build America, Buy America \(BABA\) Act](#) and all applicable rules and notices, as may be amended, shall be complied with if applicable to the project.

IV. SCOPE OF WORK / ELIGIBILITY

- A. **National Objective:** The Subrecipient certifies that the activities carried out with funds provided under this Agreement will meet one or more of HUD's National Objectives as defined in [24 CFR Part 570.208](#) for Multi-Unit Residential Rehabilitation:

☒ Activity improves permanent, low-income housing

- B. **Project Description and Statement of Work** ([24 CFR 570.503\(b\)\(1\)](#)): The Subrecipient will be responsible for administering the following activities in a manner satisfactory to the Grantee consistent with any standards and CDBG requirements as a condition of providing these funds. The Subrecipient will engage in the activities set forth in the Subrecipient's application for CDBG grant assistance:

- 1. **Property:** The Subrecipient owns property in the City of Billings, Yellowstone County, Montana legally known as:

- a. **Parcel A:** Lots 13, 14, 15, 16, 17 and 18, Block 88, of Original Town of

Billings, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County under Document No. 16312.

- b. **Parcel B:** A leasehold interest created by that certain Parking Space Lease, a memorandum of which was recorded March 19, 2008 under Document No. 3458313 in Lots 5, 6, 7, 8 and 9, Block 88, Original Town of Billings, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County under Document No. 16312.
 - c. **Address:** 115 North 24th, Billings, Montana 59101
 - d. **Tax Code:** A00594
 - e. **Geocode:** 03-1033-33-3-09-07-0000
2. **Statement of Work:** Design, prepare plans and specifications, and rehabilitate units to be fully functional and usable units. Repair windows, plumbing, roofing, mechanical and more in residential units and common areas of the building.
- C. **Project Schedule and Levels of Performance:** Each level of performance below includes time periods for performance. Unless amended by mutual written agreement by the Subrecipient and the City, the Subrecipient will perform the tasks described below:
- | Activity | Estimated Timeline |
|--|----------------------------|
| Design, prepare plans and specifications and rehabilitate units to be fully functional and usable units, including repairs to windows, plumbing, roofing, mechanical and more in residential units and common areas of the building. | July 2026 to December 2028 |
- D. **Environmental Review:** The City has completed the Environmental Review Record for this activity ([24 CFR Part 58](#)).
- E. **Effective Date & Time of Performance (Period of Performance):** This Agreement takes effect on **DATE** and will terminate upon completion of the final project closeout by the City. The activities to be performed by the Subrecipient must be completed by **DATE**.
- F. **Ownership & Publication of Materials:** As the activities carried out herein are funded, in part, with federal and public funding sources, all reports, information, data, and other materials prepared by the Subrecipient, contractor, or subcontractor pursuant to this Agreement are considered public property with unrestricted authority to release, publish or otherwise use, in whole or in part, information relating thereto. No material produced in whole or part under this Agreement may be copyrighted or patented in the United States or in any other country without the City’s prior written approval.
- G. **Prohibited Activities:** The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for:
- 1. Political activities including, but not limited to, financing the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration.
 - 2. Inherently religious activities; Subrecipient may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded through CDBG. If a Subrecipient conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under CDBG, and participation must be voluntary for the beneficiaries of the CDBG programs or services.
 - 3. Lobbying and / or political patronage; funds, materials, property, or services, provided directly or indirectly through CDBG, cannot be used for partisan political activity, or to further the election or defeat of any candidate for public office.
 - 4. Nepotism activities including, but not limited to, preferential treatment in appointment, promotion, transfer, advancement of a family member in employment or public service provision.
- H. **Beneficiaries:** Individuals and/or households with incomes less than 80 percent of the area median income as determined by the United States Department of Housing and Urban Development (“HUD”).
- I. **Term:** The term of this agreement is **15 years** from the agreement’s latest signature date. If

the property is sold or no longer provides housing for low-income individuals and/or households within the first 15 years of this agreement, the Subrecipient will immediately repay the City the entire \$750,000 award.

V. PERSONNEL ASSIGNED TO SCOPE OF WORK, NOTICES & LIAISONS

The Subrecipient shall assign the following staff as Key Personnel to this project:

Staff Member / Title	General Project Duties	Time Allocation
Julie Stiteler, Homeword (HW) Senior Project Manager	- Responsible for the day-to-day oversight and management of consultants and contractors connected with development projects - Participates in the hiring of contractors and consultants through appropriate procurement processes - Manages development projects during pre-development and construction period - Facilitates and/or obtains governing body reviews and approvals related to construction of projects - Manages and maintains project budgets; prepares draw requests and capital installment requests to funders and coordinates with the Project Development Director to ensure spending aligns with ongoing budgets and funding requirements - Participates in and facilitates weekly Owner/Developer/Architect/Contractor meetings and monthly site visits during construction - Ensures timely processing of invoices and coordination with Homeword Fiscal Policy - Prepares monthly and/or quarterly reports for funding sources - Assists with the first-year construction warranty period on new developments with Asset Management Team, property management companies and Development team - Assists with due diligence requirements and equity investor selection for development deals - Writes and prepares grants and funding applications for Development projects - Ensures project design meets regulatory requirements excluding consultant responsibilities - Acts as Owner Representative when needed (site visit, reports, draw requests, etc.)	20-40% depending on the phase of the development project
Liz Stotts, HW Project Manager	- Responsible for the day-to-day oversight and management of consultants and contractors connected with development projects - Participates in the hiring of contractors and consultants through appropriate procurement processes - Manages development projects during pre-development and construction period - Facilitates and/or obtains governing body reviews and approvals related to construction of projects - Manages and maintains project budgets; prepares draw requests and capital installment requests to funders and coordinates with the Project Development Director to ensure spending aligns with ongoing budgets and funding requirements - Participates in and facilitates weekly Owner/Developer/Architect/Contractor meetings and monthly site visits during construction - Ensures timely processing of invoices and coordination with Homeword Fiscal Policy - Prepares monthly and/or quarterly reports for funding sources - Assists with the first-year construction warranty period on new developments with Asset Management Team, property management companies and Development team - Assists with due diligence requirements and equity investor selection for development deals	20-40% depending on the phase of the development project

	- Writes and prepares grants and funding applications for Development projects - Ensures project design meets regulatory requirements excluding consultant responsibilities - Acts as Owner Representative when needed (site visit, reports, draw requests, etc.)	
Tori Rushfeldt, HW Asset Project Manager	- Assist with construction site visits - Participates in the hiring of contractors and consultants through appropriate procurement processes - Assists with the preparation of draw requests and reports	5 to 10% depending on the phase of the project development
Laurel Ramsdell, HW Finance Manager	Manages Project bookkeeping, including tracking use of funding and maintaining transaction records in QuickBooks	5 to 8% depending on the phase of the project development

Any changes in the Key Personnel assigned or their general responsibilities under this project are subject to the prior approval of the Subrecipient. If new staff are hired to carry out the activities described in this Agreement, City staff must be consulted on the following and a recruitment plan must be approved by the City in advance of advertisement.

Equal Opportunity: Any hiring of employees or engaging contractors by the Subrecipient under this Agreement will be on the basis of merit and qualification, and the Subrecipient will not discriminate against any person or business on the basis of Disability, Race / Color, Religion, Sex, Familial Status, National Origin, Sexual Orientation, Gender Identity, Marital Status, Creed, or Age.

Notices required by this Agreement shall be in writing and delivered via mail (postage paid), personal delivery, or sent by electronic mail (email), fax or other electronic means. Any notice delivered or sent as previously mentioned 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.

City	Subrecipient
Jordan Langton Community Development Coordinator City of Billings PO Box 1178 Billings, MT 59103 Phone: (406) 657-8281 Email: langtonj@billingsmt.gov	Karissa Trujillo Executive Director Homeword, Inc. 1535 Liberty Lane, Suite 116A Missoula, MT 59808 (406) 532-4663 Email: karissa@homeword.org

VI. FINANCIAL MANAGEMENT

- A. Award & Budget:** The total amount of this Agreement will not exceed \$750,000 (seven hundred and fifty thousand dollars) and must be expended by the end of the agreement performance period as noted in Scope of Work / Eligibility. A copy of the preliminary project budget is included in the Subrecipient’s application (Attachment A) and by this reference is made a part of this Agreement and binding upon the Subrecipient. Funding not expended within one year will be considered un-programmed funds and made available for allocation to new projects.
- B. Agreement Amendment:** This Agreement may be adjusted to meet demonstrated need for project completion. Expenditure deadlines may be adjusted with an amendment.
- C. Budget Modifications:** Adjustments between line items must be approved in advance by the City. In the event the Subrecipient is unable to comply with the terms and the conditions of this Agreement, any costs incurred will be the Subrecipient’s sole responsibility.
- D. Award Reduction:** If the actual total cost of completing the project is less than has been projected by the Subrecipient in its budget, the City may, at its discretion, reduce the amount

to be provided under this Agreement in proportion to the overall savings.

- E. Program Income ([24 CFR 570.503](#) and [570.504](#)):** If the use of CDBG funding results in revenues (fees paid, insurance payments, etc.), the revenue is also considered CDBG and referenced as “program income.” The Subrecipient will expend any program income it receives on the activities described herein, before requesting additional CDBG funds. The City will deduct the amount of program income on hand, shown on the drawdown form, from the amount requested by the Subrecipient. This program income will be treated as additional CDBG funds and will be subject to all applicable requirements governing the use of CDBG funds.

The Subrecipient will record receipt and expenditure of program income as part of the financial transactions of the grant program. If the Subrecipient anticipates program income after project closeout, a program income plan must be developed and submitted for review and written approval by the City at the time of closeout.

Any program income on hand when the agreement expires, or received after the agreement’s expiration, shall be paid to the recipient.

- F. Procurement:** The Subrecipient is required to ensure compliance with all applicable [State of Montana code and administrative rules](#) and with the requirements of [Omnibus Circular – 2 CFR Part 200](#), including, but not limited to, documenting the following:

1. Follow a free and open competitive process in securing products and services from the date this Agreement is executed until project completion. When possible, conduct specific outreach and advertising to reach minority- and women-owned businesses and businesses owned by low-income individuals.
2. Subrecipient must submit to the City evidence of firm commitment of the other resources necessary for the completion of the project, if any. The City will not release any CDBG funds to the Subrecipient until the Subrecipient has obtained firm commitments for all non-CDBG resources to be involved in the project. The Subrecipient may not expend or obligate any CDBG funds, until the City determines that this condition has been satisfied.
3. Subrecipient must receive permission from the City to enter into Construction Contract(s). This provision is to assure that the Subrecipient has complied with applicable procurement requirements and Labor Standards.
4. Subrecipient must properly document purchasing activities and decisions.
5. Properly bond and insure work involving large construction contracts and/or subcontracts.
6. When possible, use local businesses and contract with small, low-income, minority and/or women-owned businesses.
7. Subrecipient must not make any payments to organizations that were disbarred or suspended or otherwise ineligible to receive federal funding. Subrecipient must check the SAM.gov exclusion record database prior to utilizing federal resources.

- G. Allowable Costs ([2 CFR 200.403](#)):** The Subrecipient is required to ensure all expenditures are necessary, reasonable, and directly related to Project activities detailed within this Agreement AND not prohibited under federal, state or local laws or regulations. The standards for determining allowable costs reasonableness, allowability, and allocability of costs incurred as part of CDBG-financed activities are found in [Omnibus Circular – 2 CFR Part 200](#).

The Subrecipient shall ensure compliance with the audit requirements of [Omnibus Circular – 2 CFR Part 200, Subpart F](#) as applicable. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with the provisions of applicable OMB cost principles circulars or other applicable cost principles or regulations.

- H. Compensations, Method of Payment, & Requests for Reimbursement ([24 CFR 570.502](#) and [2 CFR 200.305](#)):** The City will authorize the Subrecipient to request the total assistance amount against the funding reserved for it by the City on a reimbursement basis. The City agrees to reimburse the Subrecipient for successfully completing the activities set forth in Scope of Work / Eligibility, as the Subrecipient incurs project costs.

The City will reimburse the Subrecipient for approved, eligible and necessary expenses according to the backup and support documentation submitted to support the expenditures. During the term of this Agreement, the Subrecipient will submit progress reports to the City

with each request for payment. This report will describe the status of the project with respect to each implementation objective including, at a minimum, the percentage of the project that 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 being requested. A project narrative for each payment is a mandatory requirement. The City will not honor claims for payment until the Subrecipient submits to the City the required progress report and the City has approved it. Support documentation may include invoices, bills, certified payroll records, City permits and inspection records, and other documents necessary to justify the payment. Processing time may be up to 30 days and reimbursements may be requested every 30 days until funding has been expended.

The City will not reimburse the Subrecipient for any expenses not included in the approved budget or not clearly and accurately supported by the Subrecipient's records. Any authorized funds not expended under this Agreement will revert to the City and will be used to finance other CDBG projects following the period of performance.

If the City determines that the Subrecipient has failed to satisfactorily carry out their responsibilities under this Agreement, the City may revoke the Subrecipient's authority to request CDBG funds approved under this Agreement until the City and the Subrecipient agrees on a plan to remedy the deficiency.

- I. Real Property & Reversion of Assets ([24 CFR 570.503\(b\)\(7\)](#)):** Any real property acquired or improved in whole or in part with CDBG funds must continue to be used for the purpose for which it was acquired or improved. Any changes in its use within fifteen (15) years of closeout of the project activities detailed within this Agreement must be approved by the City in writing. Upon expiration, termination, or closeout of this Agreement, the Subrecipient shall transfer to the City any CDBG funds on hand and any accounts receivable attributable to the use of CDBG funds under this Agreement.

The purchase of equipment is restricted to items associated with carrying out housing improvements described in this Agreement. CDBG cannot be used to purchase personal equipment for employees, volunteers, or beneficiaries. Equipment or physical assets purchased with CDBG funding must continue to be used for the activities described herein for a period of at least five (5) years following the performance period as noted in Scope of Work / Eligibility. Equipment purchased with CDBG funds is subject to Property Disposition requirements and it must be inventoried, controlled, and monitored by the Subrecipient for at least five (5) years.

If the Subrecipient sells or no longer uses the equipment, the Subrecipient shall pay to the City an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the equipment. The payment shall be treated as program income by the City.

- J. Uniform Administrative and Program Management Standards:** Subrecipient will ensure compliance with [2 CFR Part 200](#) as modified by [570.502](#). The Subrecipient's internal controls will consist of a combination of procedures:

1. Organizational chart;
2. Written definition of duties and key job responsibilities;
3. Qualified personnel;
4. Formal system of authorization and supervision;
5. Separation of duties so no one individual has authority over an entire financial transaction;
6. Control over access to assets, blank forms, and confidential documents;
7. Periodic comparisons of financial records to actual assets and liabilities (reconciliation); and
8. Records that together create accountability in the Subrecipient's financial system and safeguard its cash, property, and other assets.

- K. Accounting System:** The Subrecipient is required to have accounting records that adequately identify the source and application of CDBG funds provided to them in compliance with [2 CFR Part 200](#). To meet this requirement, the Subrecipient's accounting system should include at least the following elements:

1. **Chart of Accounts:** A list of names and the numbering system for the individual accounts that contains the basic information about classifications of financial

transactions for the organization.

2. **Cash Receipts Journal:** Documents chronologically when funds were received, in what amounts, and from what sources.
 3. **Cash Disbursements Journal:** Documents chronologically the expenditures of the organization (e.g., when the expense was incurred, how much was spent, to whom funds were paid, and for what purpose).
 4. **Payroll Journal:** Documents the organization's expenses on salaries and benefits and distinguishes different categories for regulatory purposes. Staff time spent on CDBG activities must be clearly documented and separated from staff time spent on activities not funded with CDBG.
 5. **General Ledger:** After a transaction is entered in a journal, that information also should be transferred to the proper accounts contained in the general ledger. The general ledger summarizes chronologically the activity and financial status of all the accounts of an organization.
- L. **Accounting Records:** The Subrecipient's accounting records must contain reliable and up-to-date information about the sources and uses of funds, including:
1. Federal grant awards (or subgrant allocations) received by the organization;
 2. Current authorizations and obligations of CDBG funds;
 3. Unobligated balances (funds remaining available for distribution);
 4. Assets, liabilities, program income, expenditures, and allowable costs; and
 5. Eligible activity classifications specified in [24 CFR 570.201-570.206](#).

VII. ACCESS TO RECORDS & RECORD RETENTION

The general CDBG standard for record keeping is that records must be accurate, complete, and orderly:

- A. The Subrecipient will comply with CDBG record keeping regulations in [24 CFR Part 570](#) and [2 CFR Part 200](#), as now in effect or as they may be amended during the term of this Agreement; all requirements established by the City; applicable State and Federal laws, Executive Orders, regulations, administrative directives and procedures; and local ordinances and resolutions.
- B. The Subrecipient shall furnish and cause each of its contractors and subcontractors to furnish all information and reports required hereunder 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.
- C. In general, records shall be retained for **six (6) years** from the date of submission of the City's Comprehensive Annual Performance Evaluation Report (CAPER) in which the specific activity is reported for the last time, unless there is litigation, claims, audit, negotiation, or other actions involving the records, which has started before expiration of the 4-year period. In such cases, the records must be retained until completion of the action and resolution of all issues that arise from it or the end of the regular 4-year period, whichever is longer.
- D. The Subrecipient will maintain adequate and reasonable records of its performance under this Agreement and will allow access to these records at any time during normal business hours by citizens, the City, HUD, the Comptroller General and, when required by law, the Montana Legislative Auditor ([2 CFR Part 200](#)). These records will be kept in the Subrecipient's office.
- E. The City or its agents may monitor and inspect all phases and aspects of the Subrecipient's performance to determine compliance with the Scope of Work, and other technical and administrative requirements, including the adequacy of the Subrecipient's records and accounts. The City will advise the Subrecipient of any specific areas of concern and provide the Subrecipient with the opportunity to propose corrective actions acceptable to the City.
- F. The Subrecipient shall provide citizens with reasonable access to records regarding the past use of CDBG funds, consistent with applicable state and local laws regarding privacy and obligations of confidentiality.

VIII. REPORTING, GOALS, & MONITORING

In compliance with [24 CFR 570.501\(b\)](#) and [2 CFR Part 200](#), the City will monitor the performance of

the Subrecipient against goals and performance standards as stated in this Agreement and the Subrecipient's application, including data reporting on a quarterly and annual basis. Monitoring will be conducted via desk reviews for quarterly reports and requests for reimbursements. City staff may also schedule on-site monitoring visits to assess performance and compliance. 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.

A. Quarterly Reports: Subrecipient is required to submit quarterly reports, including project narratives and descriptions of any significant problems encountered, until the entire funding allocation has been expended and reimbursed. Quarterly reports are due fifteen (15) days after each quarter ends:

- July, August, September - due on October 15
- October, November, December - due on January 15
- January, February, March - due on April 15
- April, May, June - due on July 15

B. Pest Control Reports: Subrecipient is required to include pest control updates with their quarterly reports, including any major instances of pest infestations (bed bugs, cockroaches, etc.) and detailed remediation plans.

IX. MODIFICATION, ASSIGNABILITY & INDEMNIFICATION

This Agreement contains the entire agreement between the parties, and no statements, promises, or inducements made by either party, or agents of either party, which are not contained in or authorized by this written Agreement, are valid or binding. This Agreement may not be enlarged, modified, or altered except upon written agreement, and does not imply any continuing commitment by the City of Billings beyond the termination date noted in this Agreement.

The Subrecipient accepts responsibility for the adherence to the terms of this Agreement by subcontractors of Subrecipient entities and by public or private agents or agencies to which it delegates authority to carry out portions of this Agreement.

The Subrecipient waives any and all claims and recourse against the City, including the right of contribution, for loss or damage to persons or property arising from, growing out of, or in any way connected with or incidental to the Subrecipient's or any subcontractor's performance under this Agreement.

Further, the Subrecipient will indemnify, hold harmless, and defend the City and the State of Montana against any and all claims, demands, damages, costs, expenses, or liabilities arising out of the Subrecipient's or any subcontractor's performance of this Agreement. In the event the City is named as a co-defendant in any action relating to activities to be performed by the Subrecipient or a subcontractor under this Agreement, the Subrecipient will notify the City of the action and will represent the City in the action unless the City undertakes to represent itself as a co-defendant, in which case the City will bear its own litigation costs, expenses, and attorneys' fees.

The Subrecipient may request that this Agreement be amended. However, the City will allow an amendment only if the Subrecipient clearly demonstrates that the modification is justified and will enhance the overall impact of the original project. Any changes in the scope of the project, as outlined in this Agreement, including cost increases, must be submitted in writing by the Subrecipient to the City as a request for an award adjustment. Any adjustment granted by the City shall be appended to this Agreement as an amendment.

X. AGREEMENT TERMINATION & SUSPENSION

In accordance with [2 CFR Part 200](#) and [24 CFR 570.503\(b\)\(6\)](#), this Agreement may be terminated as follows:

A. Termination and Modification Due to Loss of Funding. If, for any reason, federal financial resources required by the City to fund the Subrecipient's projects are withdrawn from the City, the City may unilaterally terminate or modify the terms of this Agreement to reflect the loss of funding. If a termination or modification is required, the City will, to the extent permitted by available CDBG funds, compensate the Subrecipient for eligible expenses incurred by the Subrecipient as of the revised termination date. The City will give the Subrecipient written notice of the effective date of the modification or termination of this Agreement and, if a reduction in funding is required, the Subrecipient will provide the City with a modified project

budget.

- B. Termination Due to Noncompliance with Agreement Terms.** If the City determines that the Subrecipient has failed to comply with the general terms and conditions of this Agreement, the project schedule, or any special conditions, and if upon notification of the defect the Subrecipient does not remedy the deficiency within a reasonable period to be specified in the notice, the City may terminate this Agreement in whole or in part at any time before the date of completion. The City will promptly notify the Subrecipient in writing of the decision to terminate, the reasons for the termination, and the effective date of the termination.
- C. Effect of Termination.** In the event of termination due to the Subrecipient's failure to comply with the terms of this Agreement or the project's adverse environmental impact, any cost incurred will be the responsibility of the Subrecipient. However, at its discretion, the City may approve a request by the Subrecipient 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 the Subrecipient to comply with the terms of this Agreement and on whether any failure to comply with the terms of this Agreement was the result of circumstances beyond the Subrecipient's control.

Repayment: The Subrecipient agrees to repay to the City all CDBG funds if the property is sold or no longer used for the purpose of affordable housing prior to the fifteen (15) year term. The Subrecipient expressly agrees to repay to the City any funds provided to the Subrecipient under this Agreement that the Subrecipient, its subcontractors or Subrecipient entities, or any public or private agent or agency to which it delegates authority to carry out portions of this Agreement expends in violation of the terms of this Agreement or the Federal and State statutes and regulations governing the CDBG Program.

XI. GRANT CLOSEOUT [\(24 CFR 570.509\)](#)

Once all CDBG funding has been expended and activities completed, or if the Subrecipient requests initiation of the closeout process, City staff will proceed with closeout. All closeout requirements must be completed within 90 days of the expiration or termination of this Agreement, unless the City authorizes an extension in writing.

In general, a grant is ready for closeout when the following conditions are met:

1. Activities are eligible, were completed and met a national objective.
2. Grant funds were expended in full or all remaining funds are returned to the City.
3. Reporting requirements were completed and submitted
4. Special conditions were met.
5. Audit and monitoring issues affecting the grant were resolved.

Following the grant closeout review, City staff will send a closeout letter to the Subrecipient if all CDBG conditions and requirements were met.

XII. INSURANCE AND CONTRACTS

The Subrecipient shall furnish the City with proof of insurance, as stipulated below, as this Agreement is submitted to the City for signature, finalization, and prior to commencing the activities described herein.

The Subrecipient shall secure and maintain such insurance policies to protect itself, its subcontractors, and the City, from all claims for bodily injuries, death or property damage that may arise under this agreement; whether the acts were made by the City or Subrecipient or by any contractor or subcontractor or anyone employed by the Subrecipient directly or indirectly.

The City shall be listed as an additional insured on all insurance policies and will include the following language:

The Company agrees that it will give the City of Billings, Montana, no less than 30 days advance written notice of its intent to cancel or materially change the described policy.

This language, however, if accompanied by a disclaimer or any other language, which negates Subrecipient responsibility for failing to provide said notice, will not be acceptable.

The following insurance policies are required:

- A.** Workers' compensation and employer's liability coverage as required by Montana law;
- B.** Professional liability in the amount of \$1,500,000 per claim;

The following insurance policies are also required and must include a waiver of subrogation against the City:

- A. Commercial General Liability, including contractual and personal injury coverages of \$750,000 per claim and \$1,500,000 per occurrence for injuries, including accidental death to any one person; and
- B. Automobile liability of \$1,500,000 per accident.

Insurance Certificates: Insurance certificates shall be filed with the City giving satisfactory evidence of insurance as stipulated above at the time the Agreement is signed. The Public Liability Insurance certificate shall be maintained during the life of the Agreement. The Builders Risk Insurance shall be secured prior to initiating construction.

Approval of Contractor / Subcontractor and Insurer: The insurer must be satisfactory to the City Attorney for the City of Billings. Further, the Subrecipient will assure all subcontractors performing work on the Project maintain public liability, property, and casualty insurance and stationary workers compensation insurance coverage in compliance with state Law.

Construction Contracts: The Subrecipient agrees to deny participation in construction contracts by ineligible, debarred or suspended persons or entities. **The Subrecipient will provide the City with the names of contractor(s) and subcontractor(s) prior to entering into contracts.** The City will check each contractor for a City of Billings business license, state contractor registration, worker’s compensation, and insurance, registration in the federal government’s System for Award Management (SAM), and that the contractor(s) is not debarred by the State of Montana and/or SAM.

The Subrecipient also understands that, if applicable and unless superseded by federal law, Montana law requires that contractors and subcontractors give preference to the employment of Montana residents for any public works contract in excess of \$25,000 for construction or non-construction services in accordance with sections [18-2-401 through 18-2-432 MCA](#), and all administrative rules adopted pursuant thereto. Unless superseded by federal law, each contractor shall ensure that at least 50% of the contractor’s workers performing labor on a construction project are bona fide Montana residents. The Commissioner of the Montana Department of Labor and Industry has established the resident requirements in accordance with sections [18-2-403 and 18-2-409 MCA](#). Any and all questions concerning prevailing wage and Montana resident issues should be directed to the Montana Department of Labor and Industry.

The State of Montana charges a 1% tax on gross receipts from all public contracts over \$5,000. Subrecipient shall ensure payment of gross receipts as required. Details may be found on the [Montana Department of Revenue website](#).

Bonding: The Subrecipient will provide proof that contractor(s) and subcontractor(s) selected for the Project possess performance and completion bonds equal to the completed value of the Project.

XIII. SIGNATURES

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

CITY

By: _____
Mike Nelson, Mayor, City of Billings

Printed Name

Date

SUBRECIPIENT

By: _____
Karissa Trujillo, Executive Director, Homeword, Inc.

Printed Name

Date

Mailing Address

Phone Number

E-mail address