



Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

Requested Action – Award a Grant

Authorize the Community Development Finance Authority (CDFA), under the Community Development Block Grant (CDBG) program, to award a grant to the Town of Marlborough, 236 Main Street, Marlborough, New Hampshire, in the amount of \$492,500 to assist in site development of 24 units of affordable elderly housing, beginning from the date of the Governor and Council approval until June 30, 2014. **100% federal funds.**

Explanation

This Agreement allocates a portion of the Community Development Block Grant (CDBG) funds provided to New Hampshire by the U. S. Department of Housing and Urban Development (HUD). CDFA is administering this program as provided by RSA 162-L. The funds for this contract are from the Community Development Block Grant Fund, which is intended to help municipalities solve development problems.

The Town of Marlborough is requesting CDBG funds, of which \$467,500 is to be subgranted to Southwestern Community Services, or a managed subsidiary, for site development in support of 24 units of affordable elderly housing. One hundred percent (100%) of the units will benefit low- to- moderate-income seniors. Match funds of \$4,400,000 include \$3,570,000 in Low Income Housing Tax Credits and an \$870,000 Capital Subsidy from NH Housing Finance Authority.

Sincerely,


Katharine Bogle Shields
Executive Director

KBS/CEB:acc

G&C: 3/6/13

Attachments

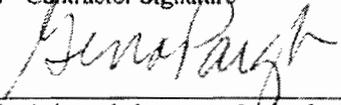
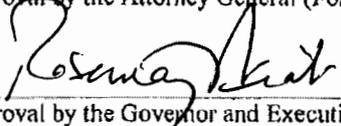
Subject: Town of Marlborough – SCS/Marlborough Homes Senior Housing – Grant #12-039-CDHS

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name New Hampshire Community Development Finance Authority		1.2 State Agency Address 14 Dixon Ave., Suite 102 Concord, NH 03301	
1.3 Contractor Name Town of Marlborough		1.4 Contractor Address 236 Main Street Marlborough, New Hampshire, 03455	
1.5 Contractor Phone Number 603-876-3751	1.6 Account Number N/A	1.7 Completion Date June 30, 2014	1.8 Price Limitation \$492,500
1.9 Contracting Officer for State Agency Janet Ackerman, Chairman, Board of Directors		1.10 State Agency Telephone Number 603-226-2170	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Gina Paight, Chairman, Board of Selectmen	
1.13 Acknowledgement: State of <u>New Hampshire</u> County of <u>Cheshire</u> On <u>2/4/2013</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]		SANDRA LAPLANTE, Notary Public My Commission Expires December 8, 2016	
1.13.2 Name and Title of Notary or Justice of the Peace <u>Sandra Laplante, Notary</u>			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Katharine Bogle Shields, Executive Director	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: <u>2-20-13</u>			
1.18 Approval by the Governor and Executive Council By: _____ On: _____			

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State") or ("CDFA"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.
3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").
3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the CDFA or State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT. Notwithstanding any provision of this Agreement to the contrary, all obligations of the CDFA or State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the CDFA or State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the CDFA or State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The CDFA or State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.
5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.
5.2 The payment by the CDFA or State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The CDFA or State shall have no liability to the Contractor other than the contract price.
5.3 The CDFA or State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by

N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.
5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.
6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.
6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.
6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the CDFA, the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.
7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.
7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.
7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

Contractor Initials 
Date 12/30/13

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, CDFA or the State may take any one, or more, or all, of the following actions:

- 8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;
- 8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the CDFA or the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
- 8.2.3 set off against any other obligations the CDFA or State may owe to the Contractor any damages the CDFA or State suffers by reason of any Event of Default; and/or
- 8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data which has been received from the CDFA or purchased with funds provided for that purpose under this Agreement, shall be the property of the CDFA, and shall be returned to the CDFA upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the CDFA or the State.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject

matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the CDFA or the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the CDFA. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State and CDFA.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the CDFA and the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the CDFA or the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the CDFA and the State, which immunity is hereby reserved to the CDFA and the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 100% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of

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insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The CDFA or State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. No failure by the CDFA or State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the CDFA or State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

19. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and

inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

EXHIBIT A GRANT ACTIVITIES

1. PROJECT DESCRIPTION AND PURPOSE

1.1. The project shall consist of the awarding of \$492,500 in CDBG funds to the Town of Marlborough (the "Grantee"), of which \$467,500 is to be subgranted to Southwestern Community Services and/or Marlborough Homes Associates Limited Partnership, a Southwestern Community Services managed subsidiary (the "Subrecipient") for the purpose of assisting in site development to support 24 units of affordable elderly housing in Marlborough, NH (the "Project"). The Scope of Work shall be more completely defined in the engineering design and plans (the "Plans") to be developed in accordance with this Agreement. The property where the housing units will be rehabilitated with Grant funds (the "Project Property") is more particularly described in the deed for such property to be attached to this Grant Agreement as Attachment I.

Consistent with the National Objectives of the Community Development Block Grant Program under Title I of the Housing and Community Development Act of 1992, as amended, the Parties agree that the purpose of this project is site preparation for the creation of 24 units of affordable elderly housing. One-hundred percent (100%) of the units will benefit Low and Moderate Income households as that term is defined in State Administrative Rule Cdfa 302.32.

1.2. Improvements to be undertaken in connection with the Project shall comply with all applicable federal, state, and local design standard regulations and safety and construction codes.

2. GRANT ADMINISTRATION

2.1. Grantee shall, using its own staff and resources, perform all activities as necessary to administer the CDBG funds in accordance with the provisions of this Agreement.

2.2. Grantee shall enforce the terms and conditions of its subrecipient agreement to be entered into with Southwestern Community Services and/or Marlborough Homes Associates Limited Partnership, as provided in this Agreement.

2.3. Grantee shall be required to send, at a minimum, its grant administrator, or a designated representative who is a full-time permanent employee involved in the administration of this Grant, to the next CDBG Grant Administration Workshop to be offered by CDFA.

2.4. Grantee shall submit to CDFA all required reports as specified in the Grant Agreement and shall monitor and enforce the reporting requirements of the Subrecipient as provided in the Agreement or any Exhibits or Attachments thereto.

2.5. Grantee shall provide such training as is necessary to the Subrecipient to secure satisfactory performance of duties and responsibilities under the Subrecipient Agreement.

2.6. Grantee shall monitor the Subrecipient for compliance with the Subrecipient Agreement and all pertinent requirements referenced herein.

2.7. Grantee shall enter into a Closeout Agreement with CDFA and Subrecipient as provided as an attachment to this agreement.

2.8. Within thirty (30) days of executing this Agreement, Grantee shall submit to CDFA for approval an Implementation schedule for completion of the Project. Grantee shall obtain the prior approval of CDFA for any changes in the Implementation Schedule.

3. FEDERAL COMPLIANCE

3.1. Grantee shall comply, and shall require any Subrecipient, contractor and subcontractor to comply, with the following federal and state laws and all applicable standards, rules, orders, or regulations issued pursuant thereto:

- 3.1.1. The Copeland "Anti-Kickback" Act, as amended (118 USC 874) as supplemented in Department of Labor regulations (41 CFR Chapter 60).
- 3.1.2 Nondiscrimination, Title VI of the Civil Rights Act of 1974 (PL 88- 352), as amended, (42 USC 2000d) the Fair Housing Act of 1968 (PL 90-284), Executive Orders 11063 and 12259, and the requirements imposed by the Regulations of the Department of Housing and Urban Development (24 CFR 107 and 24 CFR 570.496) issued pursuant to that Title.
- 3.1.3 Labor Standards. Davis-Bacon Act, as amended (40 USC 276a-276a-7), the Contract Work Hours and Safety Standards Act (40 USC 327-333).
- 3.1.4 The Flood Disaster Protection Act of 1973 (PL 93-234), as amended, regulations issued pursuant to that act, and Executive Order 11985.
- 3.1.5 Architectural Barriers Act (PL 90-480), 42 USC 4151, as amended, and the regulations issued or to be issued thereunder, including uniform accessibility standards (24 CFR 40) for public buildings with 15 or more residential units. RSA 275-C:10 and the New Hampshire Architectural Barrier Free Design Code (Han 100, et. seq.) also applies.
- 3.1.6 Rehabilitation Act of 1973, 29 USC 794, Sections 503 and 504, Executive Order 11914 and U.S. Department of Labor regulations issued pursuant thereto.
- 3.1.7 The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646), as amended, 15 CFR Part 916 including amendments thereto and regulations thereunder.
- 3.1.8 The National Environmental Policy Act of 1969 (PL 90-190); the National Historic Preservation Act of 1966 (80 Stat 915, 116 USC 470); and Executive Order No. 11593 of May 31, 1971, as specified in 24 CFR 58.
- 3.1.9 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 Part 15, as amended from time to time.
- 3.1.10 RSA 354 and rules of the New Hampshire Human Rights Commission (HUM 100, et. seq.) on discrimination in employment, membership, accommodations, and housing.
- 3.1.11 The Age Discrimination Act of 1975 as amended (42 USC 6101, et. seq.) and implementing regulations.
- 3.1.12 The lead paint requirements (24 CFR 35) of The Lead-Based Paint Poisoning Prevention Act (42 USC 4821, et. seq.).
- 3.1.13 The NH State Energy Code (RSA 155-D).
- 3.1.14 The NH State Life Safety Code (RSA 155:1) and rules of the NH State Fire Marshall.
- 3.1.15 Citizen Participation Requirements. The 1987 amendments to the Housing and Community Development Act of 1974, stated in Section 508.
- 3.1.16 Affirmative Action Requirements. In furtherance of its covenant Grantee shall:
 - (1) take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, age, sex, or national origin; such action shall be taken in conjunction with any of the Grantee's acts in the capacity of an employer including, but not limited to: employment of individuals, upgrading, demotions or transfers, recruitment or recruitment advertising; layoffs or terminations; changes in rates of pay or other forms of compensation; selection for training, including apprenticeship, and participation in recreational and educational activities;

- (2) post in conspicuous places available to employees and applicants, employment notices, to be provided by CDFA, setting forth the provisions of this non-discrimination clause; the Grantee will, in all solicitations or advertisements for employees, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, age, sex or national origin;
- (3) keep all such information, records and reports as may be required by the rules, regulations or orders of the Secretary of Labor and furnish or submit the same at such times as may be required; the Grantee shall also permit CDFA, or the Secretary of Labor or any of their designated representatives to have access to any of the Grantee's books, records and accounts for the purpose of investigation to ascertain compliance with the aforesaid rules, regulations and orders and covenants and conditions herein contained;
- (4) during the term of this agreement, shall not discriminate among participants under this agreement on the basis of race, color, religion, sex, handicap or national origin. For the purpose of this agreement, distinctions on the grounds of the following: denying a participant any service or benefit or availability of a facility; providing any service or benefit to a participant which is different, or is provided in a different manner or at a different time from that provided to other participants under this agreement; subjecting a participant to segregation or separate treatment in any matter related to his receipt of any service; restricting a participant in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; treating a participant differently from others in determining whether he satisfies any admission, enrollment quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service or benefit; the assignment of times or places for the provision of services on the basis of race, color, religion, sex, or national origin of the participants to be served.

3.1.17 Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u) as amended by the Housing and Community Development Act of 1974 (42 USC 5301). 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 lower income 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 service and supplies.

3.1.18 Drug-Free Workplace Act of 1988 (42 USC. 701). In carrying out this agreement, the contractor agrees to comply with the requirements of the Drug-Free Workplace Act of 1998 (42 U.S.C. 701) and to certify that contractor will comply with drug-free workplace requirements in accordance with the Act and with HUD rules found at 24 CFR part 24, subpart F.

3.1.19 Federal Funding Accountability and Transparency Act (FFATA). As applicable to this grant, and for all subcontracts exceeding \$25,000, Grantee shall require that the Subgrantee or Subrecipient shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Dun and Bradstreet Data Universal Numbering System (DUNS), the Central Contractor Registration (CCR) database, and the Federal Funding Accountability and Transparency Act, including Appendix A to Part 25 of the Financial Assistance Use of Universal Identifier and Central Contractor Registration, 75 Fed. Reg. 55671 (Sept. 14, 2010)(to be codified at 2 CFR part 25) and Appendix A to Part 170 of the Requirements for Federal Funding Accountability and Transparency Act Implementation, 75 Fed. Reg. 55663 (Sept. 14, 2010)(to be codified at 2 CFR part 170). For additional information on FFATA reporting and the FSRS system, please visit the www.fsrs.gov website, which includes FFATA legislation, FAQs and OMB guidance on subaward and executive compensation reporting.

3.1.20 Women- and Minority-Owned Businesses (W/MBE). As applicable to this grant, Grantee and Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C, 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American

Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

4. SUBRECIPIENT AGREEMENT

4.1. Grantee shall enter into a Subrecipient Agreement with the Subrecipient in a form satisfactory to CDFA and meeting the requirements of Attachment II, "Subrecipient Agreement Minimum Terms and Conditions" attached hereto and incorporated herein by reference.

4.2. The Subrecipient Agreement shall provide for the subgranting of \$467,500 in CDBG funds to the Subrecipient consistent with the terms and conditions of this Agreement.

4.3. Grantee shall provide to CDFA for its review and approval the proposed Subrecipient Agreement prior to its execution. Prior to the disbursement of grant funds but not less than thirty (30) days following the Effective Date of this Agreement, Grantee shall provide to CDFA an executed copy of said Subrecipient Agreement.

4.4. Grantee shall cause all applicable provisions of this Exhibit A to be inserted in all Subrecipient agreements, contracts and subcontracts for any work or Project Activities covered by this Agreement so that the provisions will be binding on each Subrecipient, contractor and subcontractor; provided, however, that the foregoing provisions shall not apply to contracts for standard commercial supplies or raw materials. Grantee shall take such action with respect to any Subrecipient agreement, contract or subcontract as the State, or, where applicable, the United States, may direct as a means of enforcing such provisions, including sanctions for noncompliance.

5. PROJECT MATCHING FUNDS; ADDITIONAL FINANCING

5.1 The Parties agree that the CDBG funds to be awarded pursuant to this Agreement shall be matched with non-CDBG funds in an amount not less than \$4,440,000, to provide additional financing for the Grant Project as follows:

5.1.1 An equity investment (loan) to be obtained by Southwestern Community Services and/or Marlborough Homes Associates Limited Partnership in the amount of \$3,570,000 and secured by Low Income Housing Tax Credits allocated to this project by the New Hampshire Housing Finance Authority. The investment or loan shall be obtained and closed prior to the release of grant funds; and

5.1.2 A Capital Subsidy in the amount of \$870,000 to be obtained from the New Hampshire Housing Finance Authority HOME funds.

5.2 Grant funds shall not be released or disbursed to Grantee unless and until the additional financing and matching requirements described above have been obtained and documented to CDFA's satisfaction.

6. CONSTRUCTION CONTRACTING, BIDS, BONDS, INSPECTION, AND CERTIFICATION (FOR CONSTRUCTION PROJECTS ONLY)

6.1 Prior to execution of the construction contract or contracts, Grantee shall submit the proposed contract(s) for the Improvements to CDFA for its review and approval to determine compliance with all applicable federal and state requirements. CDFA approval shall not abrogate its rights to enforce any part of this Agreement or constitute a waiver of any provision of this Agreement.

6.2 Grantee shall require all contractors and subcontractors to comply with all applicable requirements of federal, state, and local laws and regulations.

6.3 Grantee shall furnish and maintain competent technical supervision of the Project site throughout the construction of the Improvements to assure that the work conforms to the Plans, specifications, and schedules approved by CDFA for the Project.

6.4 Grantee shall provide CDFA reasonable notice of all preconstruction conferences to be scheduled in

connection with the Grant Activities and afford CDFA the option of participating in such conferences.

6.5 Bid Guarantees: Units of local government shall follow their own normal requirements relating to bid guarantees or bonds or performance bonds.

6.6 Bonds Required: Grantee covenants that each of its officials or employees having custody of the Grant funds during acquisition, construction, development, and operation of Grant Activities shall be bonded at all times in accordance with RSA 41:6 and rules adopted thereunder by the Department of Revenue Administration.

6.7 Subcontracts, Bonds Required: When Grantee or any Subrecipient awards a contract or subcontract exceeding \$100,000 in amount for the construction, alteration or repair of any public building or other public improvement or public work, including highways, the Grantee shall, or where applicable Subrecipient shall, as a minimum, require each contractor and subcontractor to carry payment and performance bonds for 100% of the value of the contract.

6.8 Upon completion in full of the Improvements, Grantee shall promptly deliver to CDFA: (a) a written certificate of Grantee's inspector, who shall be a licensed professional engineer, that the construction of the Project has been fully completed in a good and workmanlike manner and in accordance with the Plans, and (b) a copy of the permanent certificate of occupancy or other such applicable certificates, licenses, consents and approvals issued by governmental authorities with respect to the Project.

6.9 All work under this Project shall be completed prior to Completion Date, as specified in Section 1.7 of the General Provisions.

7. HOUSING REHABILITATION STANDARDS

7.1 The following standards shall apply to all housing units rehabilitated with Grant funds:

7.1.1 HUD Section 8 Existing Housing Quality Standards as listed in 24 CFR 982.401, paragraphs (a) through (n) (see Appendix 3 of the New Hampshire CDBG Administrative Rules) or municipal housing and/or building, electrical and plumbing codes where such codes exceed the HUD standards;

7.1.2 Where applicable, the state building code as defined in RSA 155-A; and

7.1.3 Where applicable, the state's architectural barrier free design code.

8. MORTGAGE LIEN

8.1 Prior to approval by CDFA of any construction contract for the Property, Grantee shall execute and record with the applicable County Registry of Deeds a mortgage lien (the "Mortgage") on the Property (land and improvements) acceptable to CDFA. Grantee shall submit to CDFA satisfactory evidence of such recording.

8.2 The mortgage lien shall provide for the recovery by Grantee, on behalf of CDFA, of sums of CDBG funds expended on this Project in the event that benefit for Low and Moderate Income persons as defined herein is not maintained for the required twenty (20) year period commencing upon the completion of the Project. The amount of CDBG funds subject to recovery in accordance with this paragraph shall be no less than \$467,500.

8.3 Any CDBG funds returned to Grantee pursuant to enforcement of the Mortgage Liens shall be returned to CDFA.

9. COVENANT OF LONG TERM BENEFIT FOR LOW AND MODERATE INCOME PERSONS

9.1 Grantee and CDFA agree that a minimum of 100% of the persons benefiting from this Project are Low and Moderate Income Persons as that term is defined in State Administrative Rule Cdfa 302.33.

9.2 Grantee shall require the Subrecipient to certify and warrant that, from the Project Completion Date to

the end of the 20-year benefit period, the persons to be afforded access to units under this Project shall primarily benefit low and moderate income persons.

9.3 Grantee shall require Subrecipient to maintain adequate administrative mechanisms in place to assure compliance with the requirements of this Section. Grantee shall enforce the provision of this Section, which shall survive the termination or expiration of this Agreement.

10. GRANTEE FINANCIAL MANAGEMENT SYSTEM.

10.1 Except where inconsistent with federal requirements, state procedures and practices will apply to funds disbursed by CDFA, and local procedures and practices will apply to funds disbursed by units of local government.

10.2 Cash Advances: Cash advances to Grantee shall be approved only to the extent necessary to satisfy the actual, immediate cash requirements of Grantee in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by Grantee for direct program costs and the proportionate share of any allowable indirect costs. Cash advances made by Grantee to subrecipients shall conform to the same standards of timing and amount as apply to advances to Grantee including the furnishing of reports of cash disbursements and balances.

10.3 Fiscal Control: Grantee must establish fiscal control and fund accounting procedures which assure proper disbursement of, and accounting for, grant funds and any required non-federal expenditures. This responsibility applies to funds disbursed by subrecipients and contractors as well as to funds disbursed in direct operations of Grantee. Grantee shall be required to maintain a financial management system which complies with 24 CFR 85.20 or such equivalent system as CDFA may require. Requests for payment shall be made according to CDFA's CDBG Implementation Guide.

11. PROCUREMENT.

11.1 Grantee and any Subrecipient procurement procedures shall be in accordance with state and local procurement practices and regulations, provided that procurements made with Grant Funds adhere, as a minimum, to the standards set forth in 24 CFR 85.36. Grantee shall not use debarred, suspended or ineligible contractors or subrecipients as provided in 24 CFR 570.489 (I).

12. REPORTS AND CLOSE OUT

12.1 Semi-Annual progress reports which identify the status of Grant Activities performed, the outlook for completion of the remaining Grant Activities prior to the Completion Date and the changes, if any which need to be made in the Project or Grant Activities, shall be submitted by the 15th of the month via CDFA's Grants Management System (GMS) following the end of every other quarter.

12.2 Financial reports, including a statement detailing all Grant or Project Costs (as hereinafter defined) which have been incurred since the prior request for reimbursement, shall be submitted with each request for reimbursement and with the Closeout Report. Financial Reports shall be submitted via CDFA's Grants Management System (GMS).

12.3 Within thirty (30) days after the Completion Date, a Closeout Report shall be submitted which summarizes the results of the Grant Activities, showing in particular how the Grant Activities have been performed. The Closeout Report shall be in the form required or specified by CDFA and be submitted via CDFA's Grants Management System (GMS).

12.4 The Audited Financial Reports shall be prepared in accordance with the regulations (24 CFR Part 44) which implement OMB Circular A-133. The audited financial report shall be submitted within thirty (30) days of the completion of said report to CDFA.

12.5 Where the Grantee is not subject to the requirements of OMB Circular A-133, one of the following options will be chosen by CDFA:

12.5.1 Within ninety (90) days after the Completion or Termination Date two (2) copies of an audited financial report shall be submitted to CDFA. Said audit shall be conducted utilizing the guidelines set forth in "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" by the Comptroller General of the United States.

12.5.2 CDFA will conduct a financial Review-in-Lieu of Audit within ninety (90) days after the Completion Date of the Project.

12.5.3 Where the length of the grant period exceeds twenty-four (24) months, there shall be an interim audit performed and submitted.

13. RECORDS AND ACCOUNTS: ACCESS

13.1 During the performance of the Project Activities and for a period of three (3) years after the Completion Date or the date of the final audit approval by CDFA, whichever is later, the Grantee shall keep, and shall require any Subrecipient to keep, the following records and accounts:

13.1.1 Records of Direct Work: Detailed records of all direct work performed by its personnel under this Agreement.

13.1.2 Fiscal Records: Books, records, documents and other statistical data evidencing, and permitting a determination to be made by CDFA of all Project Costs and other expenses incurred by the Grantee and all income received or collected by the Grantee, during the performance of the Project Activities. The said records shall be maintained in accordance with accounting procedures and practices acceptable to CDFA, and which sufficiently and properly reflect all such costs and expenses, and shall include, without limitation, all ledgers, books, audits, records and original evidence of costs such as purchase requisitions and orders, invoices, vouchers, bills, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls and other records requested or required by CDFA.

13.1.3 Contractor and Subcontractor Records: The Grantee shall, and where applicable, Subrecipient shall, establish, maintain and preserve, and require each of its contractors and subcontractors to establish, maintain and preserve property management, project performance, financial management and reporting documents and systems, and such other books, records, and other data pertinent to the project as the CDFA may require. Such records shall be retained for a period of three (3) years following completion of the project and receipt of final payment by the Grantee, or until an audit is completed and all questions arising therefrom are resolved, whichever is later.

14. TERMINATION; REMEDIES

14.1. Inability to Perform; Termination by Grantee. As a result of causes beyond its control, and notwithstanding the exercise of good faith and diligence in the performance of its obligations hereunder, if it shall become necessary for Grantee to terminate this Agreement, Grantee shall give CDFA fifteen (15) days advance written notice of such termination, in which event the Agreement shall terminate at the expiration of said fifteen (15) days.

14.2. Termination Without Default. In the event of termination without default and upon receipt, acceptance and approval by CDFA of the Termination Report, as referenced in the General Provisions, Grantee shall receive payment for all Project Costs incurred in the performance of Grant Activities completed up to and including the date of termination and for which payment had not previously been made including, but not limited to, all reasonable expenses incurred in the preparation of the Termination Report; provided, however, that in the event that any payments have been made hereunder in excess of Project Costs incurred up to and including the date of termination of the Agreement, CDFA shall offset any payments to be made hereunder against such payments, and if applicable, Grantee shall refund to CDFA the amount of any excess funds it retains after such offset.

14.3. Termination for Default. In the event of termination for default or other violation of Program requirements, CDFA shall, upon receipt, acceptance and approval of the Termination Report submitted by Grantee, pay Grantee for Project Costs incurred up to and including the date of termination (subject to off-set against funds paid to Grantee hereunder and to the refund of any excess funds); provided, however, that in such event the amount of such payment shall be determined solely by CDFA; and provided, further, that in no event shall the making of any such payments relieve Grantee of any liability for damages sustained or incurred by CDFA as a result of Grantee's breach of its obligations hereunder, or relieve Grantee of responsibility to seek return of Grant Funds from any Subrecipient or Beneficiary where applicable.

14.4. Limitation on Grantee Liability for Subgranted Funds. Notwithstanding anything in this Agreement to the contrary and absent the presence of fraud or negligence on the part of Grantee in enforcing its rights and obligations under the terms of any subrecipient agreement, the sole obligation of Grantee with respect to the return of Grant Funds, in the event of default on a grant condition or other termination of the Project or event requiring return of Grant Funds, shall be to make a good faith effort to return to the State of New Hampshire all grant funds paid to Subrecipient through Grantee. Grantee shall make good faith efforts to enforce the legal obligations entered into with the Subrecipient as provided herein, to call upon the collateral held by itself or others, and exercise due diligence in its efforts in bringing about the satisfaction of the grant obligations and, having done so, it shall not be required to look to any other funds or its tax base to recoup grant funds not recovered from the Subrecipient.

14.5. Assignment to CDFA and Payment of Expenses and Costs. Grantee hereby agrees that, in the event it fails to enforce the provisions of any Subrecipient Agreement or fails to cure an Event of Default resulting in termination of this Agreement or the Project, Grantee shall, upon demand by CDFA, assign and convey to CDFA all or any of its rights, title and interest, or delegate to CDFA all or any of its obligations under the Subrecipient Agreement and any Mortgage, Promissory Note, Security Agreement or other agreement as applicable. Such delegation or assignment shall be effective only in the event of a default by Subrecipient or Beneficiary in its or their obligations under the Subrecipient Agreement or other agreement. In the event that CDFA assumes any of the obligations of Grantee as provided herein, Grantee shall pay all costs and expenses incurred by CDFA in the enforcement of the Subrecipient Agreement, collection upon any loan, mortgage or other security, or in curing any Event of Default.

14.6. Where the Grant Agreement or Subrecipient Agreement is terminated or the Project is otherwise terminated due to a default, inability to perform, or reason other than project completion and Grant Funds are required to be returned by Grantee, the disposition of Grant Funds to be returned shall be determined solely by CDFA.

15. ADDITIONAL GRANT REQUIREMENTS

15.1. Grantee shall prepare and adopt a written Code of Ethics governing the performance of its employees engaged in the procurement of supplies, equipment, construction, and services consistent with the requirements of 24 CFR 85.36(b)(3). The Code of Ethics shall be prepared in the form shown in the CDBG Implementation Guide, and shall be formally adopted prior to requesting Grant Funds. The Grantee shall also comply with the conflict of interest requirements of 24 CFR 570.489(h).

15.2. Grantee shall prepare and adopt a financial management plan, approved by CDFA, which describes Grantee's system for receiving and expending Grant Funds including internal controls which shall ensure compliance with applicable provisions. The plan shall be formally adopted prior to requesting Grant Funds.

15.3. Grantee shall submit to CDFA all required documentation of Low and Moderate Income individuals in accordance with the reporting requirements of the Subrecipient Agreement. The information shall be provided on the Beneficiary Characteristics Report, a copy of which can be found in the Community Development Block Grant Program (CDBG) Implementation Guide.

15.4. In the event Grantee fails to enforce the provisions of the Subrecipient Agreement or fails to cure an Event of a Default under the Subrecipient Agreement, Grantee shall, upon demand by CDFA, assign and convey all or any part of its rights, title and interest or delegate all or any of its obligations under the Subrecipient Agreement or the Mortgage to CDFA, such assignment or delegation to be effective only in the event of a default in Subrecipient's obligation to Grantee under the terms of the Subrecipient Agreement or Mortgage. In such event, Grantee agrees to pay and shall pay all reasonable costs and expenses incurred by CDFA in the enforcement of the Subrecipient or Mortgage obligations or in curing any Event of Default

thereunder.

15.5. CDFA shall have the right to terminate all or any part of its obligations under this Agreement in the event that any official, employee, architect, engineer, attorney, or inspector of or for the Grantee or any governmental official or representative becomes directly or indirectly interested financially in the acquisition of any materials or equipment, or in any construction of the Project, or in the furnishing of any service to or in connection with the Project, or any benefit arising therefrom.

15.6. Excessive Force by Law Enforcement Agencies. Grantee certifies that it has adopted and enforces a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations in accordance with Section 519 of Public Law 101-144.

15.7. Lobbying. Grantee certifies that:

15.7.1 No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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.

15.7.2 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, the undersigned shall complete and submit Standard form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

15.7.3 The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

15.8 Notice To Prospective Subcontractors Of Requirement For Certifications Of Nonsegregated Facilities. Certification of Nonsegregated Facilities as required by the May 9, 1967, Order of the Secretary of Labor (32 FR 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor. The Certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

Prior to the award of any construction contract or subcontract exceeding \$10,000, which is not exempt from the provisions of the Equal Opportunity clause, Grantee shall require the prospective prime contractor and each prime contractor shall require each subcontractor to submit the following certification:

15.8.1 By the submission of this bid, the bidder, offer or, applicant or subcontractor certifies that he/she does not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she does not permit his/her employees to perform their services at any location, under his/her control where segregated facilities are maintained.

15.8.2 He/she certifies further that he/she will not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she will not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. The bidder, offer or, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact

segregated on the basis of race, creed, color or national origin, because of habit, local custom, or otherwise. He/she further agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause: that he/she will retain such certifications in his/her files: and that he/she will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTE: The penalty for making false statements in offers is prescribed in 18 USC 1001.

15.9 Publicity and Signage.

15.9.1 Public Relations. The Grantee shall grant CDFA the right to use the Grantee's name, likeness, and logo in any public relations or publicity efforts. This shall include, but not be limited to, press releases, media interviews, website, publications, brochures, etc. CDFA's publicity efforts may also include details about Grantee's project, contract, or other publically available information.

15.9.2 Reciprocal Publicity. The Grantee also shall acknowledge CDFA appropriately in all organizational and public forums as to the support, financial and otherwise, that has been provided to the project. This recognition shall include, but not be limited to, print/electronic media, publications, interviews, brochures, website, etc.

15.9.3 Project Signage. For construction/renovation projects – CDFA logo must be included in signage at the job worksite. CDFA logo may not be any smaller than 50% of the size of the largest logo displayed. This requirement can be waived if no other partner/entity requires worksite signage and creating signage solely for CDFA poses a hardship. Alternative – If none of these are applicable/feasible, an alternative display of the CDFA logo or public recognition agreeable to CDFA.

EXHIBIT B

PROJECT COSTS; METHOD AND TERMS OF PAYMENT

1. PROJECT COSTS; PAYMENT SCHEDULE; REVIEW BY CDFA

- 1.1. Project Costs: As used in this Agreement, the term "Project Costs" shall mean all reimbursable costs incurred in performance of the Grant activities. "Administrative Project Costs" shall mean all expenses directly or indirectly incurred by Grantee in the performance of the Project Activities, as determined by CDFA to be eligible and allowable for payment in accordance with allowable administrative project cost standards set forth in OMB Circular A-87 as revised from time to time, and with the rules, regulations, and guidelines established by CDFA. Administrative project costs include but are not limited to: preparation of environmental review, record keeping, reporting, audits, and oversight of Project construction and compliance with all federal, state, and local laws, rules, and regulations and this contract. In no event shall Administrative Project Costs exceed fifteen (15) percent of the total Grant funds allowed. With respect to a nonprofit subrecipient, such subrecipient shall meet the requirements of OMB Circular A-122.
- 1.2. Delivery Costs: As used in this Agreement, the term "Delivery Costs" shall mean all reimbursable costs incurred by a Subrecipient in connection with a regional revolving loan fund that are directly related to the preparation and execution of loan documents and to the monitoring and administration of the loan provisions, and which are allowable by the New Hampshire Community Development Block Grant program rules.
- 1.3. Payment of Project Costs: Subject to the terms and conditions of this agreement, CDFA agrees to pay Grantee all Project Costs, provided, however, that in no event shall the total of all payments made by CDFA pursuant to this Agreement exceed the Grant Amount as set out in Paragraph 1.8 of the General Provisions, and provided further that all Project Costs shall have been incurred prior to the Completion Date, except for reasonable approved Project Costs incurred within 90 days after the Completion Date and in connection with closeout requirements as provided in State Administrative Rule Cdfa 311.01(c)(4).
- 1.4. Review by CDFA; Disallowance of Costs: At any time during the performance of the Project Activities, and upon receipt of the Progress Reports, Closeout Report, or Audited Financial Report, CDFA may review all Project Costs incurred by Grantee or any Subrecipient and all payments made to date. Upon such review, CDFA shall disallow any items of expense which are not determined to be allowable or are determined to be in excess of actual expenditures, and shall, by written notice specifying the disallowed expenditures, inform Grantee of any such disallowance. If CDFA disallows costs for which payment has not yet been made, it shall refuse to pay such costs. If payment has been made with respect to costs which are subsequently disallowed, CDFA may deduct the amount of disallowed costs from any future payments under this Agreement or require that Grantee refund to CDFA the amount of the disallowed costs.

2. METHOD AND TERMS OF REIMBURSEMENT FOR PROJECT COSTS

- 2.1. When Project Funds May Be Released. CDFA shall not disburse any funds for the purposes of this Project until such time as all agreements specified in Exhibit A and any other agreements or documents specified pursuant to this Agreement are fully executed and received, and where applicable are reviewed and approved in writing by CDFA. Agreements and documents may include:
 - 2.1.1. A Subrecipient Agreement;
 - 2.1.2. Documentation of all required matching funds;
 - 2.1.3. A copy of any required deed, survey, map, or other document pertaining to the Project Property or Premises;
 - 2.1.4. Copies of required certificates of insurance;

- 2.1.5. Engineering, construction, consultant, or other contracts;
- 2.1.6. Certification/verification of employment documentation or household income documentation;
- 2.1.7. Any loan documents, lease documents, mortgages, liens, security instruments, and similar agreements used in connection with the enforcement of beneficiary requirements.

2.2. Timing of Payments. Upon thirty (30) days of the receipt, review, and approval by CDFA of financial reports and requests for reimbursement from Grantee specifying all Project Costs incurred, CDFA agrees to reimburse Grantee for Project Costs, except that reimbursement may be withheld until CDFA determines that a particular project activity or portion of the project activity hereunder has been satisfactorily completed.

2.3. Disbursement of funds by CDFA does not constitute acceptance of any item as an eligible Project Cost until all Project Costs have been audited and determined to be allowable costs.

3. REQUIRED DOCUMENTATION FOR DISBURSEMENT OF GRANT FUNDS

3.1. Reimbursement requests for all Project Costs, including Administrative Project Costs, Delivery Costs, and Subrecipient costs, shall be accompanied by proper supporting documentation in the amount of each requested disbursement along with a payment request form as supplied by CDFA, which shall be completed and signed by Grantee. Documentation may include invoices for supplies, equipment, services, contractual services, and, where applicable, a report of salaries paid or to be paid.

3.2. Where Project Costs include the purchase of equipment, Grantee or Subrecipient as appropriate shall also submit written verification that it has inspected the Project Property and the equipment to be purchased with Grant funds has been installed and is ready for operation.

4. LIMITATIONS ON USE OF FUNDS

4.1. Grant funds are to be used in a manner consistent with the State of New Hampshire Community Development Block Grant Program as approved by the U.S. Department of Housing and Urban Development.

4.2. Grant funds are to be used only in accordance with procedures, requirements and principles specified in 24 CFR 85.

4.3. Grant funds may not, without advance written approval by CDFA, be obligated prior to the Effective Date or subsequent to the Completion Date of the grant period. Obligations outstanding as of the Completion Date shall be liquidated within ninety (90) days. Such obligations must be related to goods or services provided during the grant period, except that reasonable costs associated solely with grant closeout, (e.g., audits, final reports) may be incurred within ninety (90) days after the Completion Date. The funding assistance authorized hereunder shall not be obligated or utilized for any activities requiring a release of funds under the Environmental Review Procedure for the Community Development Block Grant Program at 24 CFR Part 58, until such release is issued in writing by CDFA.

4.4. Changes In Funding Project Activities: Grantee may submit a written request for the authority to transfer up to ten (10) percent of the full value of the grant from one approved activity to another listed in Exhibit A herein or from an approved activity within the approved project area to an approved activity located outside the project area and the Director of CDFA may approve the requested transfer.

4.5. Transfers over ten percent of the full value of the grant from one approved activity to other approved activities or outside the target area, or the addition of one or more new activities requires an amendment to this grant agreement. Grantee shall hold a public hearing in accordance with RSA 4: C: 14 II(b) submitting a request for an amendment involving twenty-five (25) percent or more of the full value of the grant.

4.6. Up to \$467,500 of Grant Funds may be applied by Grantee for costs related to site work improvements of the property.

4.7. Up to \$25,000 of Grant Funds may be applied by Grantee for costs related to the administration of the grant.

5. PERFORMANCE OF SERVICES BY GRANTEE PRIOR TO EFFECTIVE DATE; PAYMENT BY CDFA. Any Grant Activities performed by Grantee with non-CDBG funds prior to the Effective Date shall be performed at the sole risk of Grantee, and in the event that this Agreement shall not become effective, CDFA shall be under no obligation to pay Grantee for any costs incurred in connection with any Grant Activities, or to otherwise pay for any Activities performed during such period.

6. PROGRAM INCOME.

6.1. Program Income: All program income earned during the term of this Agreement shall be retained by Grantee or, in projects involving the administration of a revolving loan fund by the Subrecipient.

6.2. When Used For Project Activities: When program income becomes available, Grantee and, where applicable, Subrecipient shall use it for Grant Activities contained in the Project Description before drawing down additional funds unless the program income is deposited in a revolving loan account with prior approval by CDFA.

6.3. When Used For Eligible Activities: After completion of the Grant Activities specified in this Agreement, Grantee and, where applicable, Subrecipient shall use program income only for eligible activities which benefit primarily people from low and moderate income families, with prior approval by CDFA as specified in the Closeout Agreement between CDFA and Grantee and, where applicable, Subrecipient.

Please Return To:
Upton & Hatfield, LLP
PO Box 13
Hillsborough, NH 03244-0013

QUITCLAIM DEED

Marlborough School District, a municipal corporation in the County of Cheshire and State of New Hampshire, pursuant to authority granted at the Annual Meeting of the District March 2010, for consideration paid, grants to **Marlborough Homes Limited Partnership**, a New Hampshire limited partnership, whose mailing address is c/o Southwestern Community Services, Inc., 63 Community Way, PO Box 603, Keene, New Hampshire 03431, with **QUITCLAIM COVENANTS:**

Beginning at a point in a stone wall on the north side of School Street at land now or formerly of Melanson;

Thence turning and running North 21° 9' 48" West a distance of 152.74 feet to a rebar set in the ground at land now or formerly of Goodrich;

Thence turning and running North 68° 52' 23" East a distance of 102.17 feet to a rebar set in the ground;

Thence turning and running North 20° 11' 31" West a distance of 91.74 feet to a point at the end of a stone wall;

Thence continuing North 19° 48' 2" West a distance of 27.63 feet to an iron fence post on the south side of Highland Street, so-called;

Thence turning and running along the south side of Highland Street North 73° 53' 48" East a distance of 83.51 feet to a granite post;

Thence turning and running South 20° 45' 22" East a distance of 135.53 feet by land of Ball to a granite post;

Thence turning and running North 71° 27' 45" East a distance of 31.71 feet to a point;

Thence continuing North 67° 11' 48" East a distance of 60.85 feet to a granite post, said post being on the west side of Seavey Court, so-called;

Thence continuing along the end of Seavey Court North 71° 18' 36" East a distance of 30.87 feet

to a granite post;

Thence continuing North 68° 18' 18" East a distance of 83.62 feet by land of Grover to a point;

Thence continuing North 68° 46' 25" East by land of Brooks to a point, said point is 9.91 feet westerly from the west side of Knights Lane;

Thence turning and running South 21° 13' 35" East a distance of 155.89 feet to a point which is at the west side of Pierce Avenue at land of Pierce Avenue Partners;

Thence turning and running South 68° 36' 21" West a distance of 132.21 feet to a stone post;

Thence turning and running North 21° 20' 25" West a distance of 58.55 feet to a point;

Thence turning and running South 68° 6' 41" West a distance of 82.50 feet to a point;

Thence turning and running South 20° 42' 00" East a distance of 31.01 feet to a point;

Thence turning and running South 69° 18' 00" West a distance of 187.61 feet to the point or place of beginning.

Said premises are more fully described in a plan entitled "Boundary Line Adjustment Plan, Lands of Town of Marlborough & Marlboro School District, dated 02/09/2011, SVE Associates, Surveyors", said plan to be recorded in the Cheshire County Registry of Deeds.

The premises are conveyed together with and the benefit of the restrictions and notes set forth on said plan. Notwithstanding the generality of the foregoing, there is specifically included any right and title of the Grantor in the parcel described on Note 5 of said plan.

For title reference, see deeds recorded in the Cheshire County Registry of Deeds at Book 646, Page 221 and Book 529, Page 260.

Also granting to the Grantee the right to use in common with others the area shown as "Easement" at the southeast corner of the granted premises containing 1,675 square feet. Said easement area to be utilized for access to and from the premises and for all normal easement purposes. The use of the easement area by the Grantee is conditioned upon the Grantee assuming full responsibility and liability for the maintenance and upkeep of said area. The Grantor assumes no liability to maintain the rights of way in passable condition.

Also granting to the Grantee herein the right to use the remaining property of the Grantor for vehicular purposes and utility purposes, those premises located on the west side of the Grantor's remaining property constituting an extension of Knights Lane, and also the property located at the southern end of the Grantor's retained property constituting an extension of Pierce Avenue and an extension of the right-of-way that runs from the main street of Marlborough into the property described herein. The use of the rights-of-way granted herein are conditioned upon the

Grantee assuming full responsibility and liability for the maintenance and upkeep of said rights-of-way. The Grantor assumes no liability to maintain said rights-of-way in a passable condition.

The within conveyance is conditioned upon the Grantee developing the property as an affordable housing facility for persons 55 years of age or older. If at any time the property is not utilized for affordable housing for persons 55 years of age or older, title to the property shall revert to the Marlborough School District. This condition shall run with the land and is part of the consideration of the conveyance. Notwithstanding the foregoing, the Grantee shall be granted a period of three (3) years from the date of this deed to complete the process of offering affordable housing to persons 55 years and older. Grantor acknowledges that: (i) Grantee intends to develop the property described herein using Low Income Housing Tax Credits awarded by the New Hampshire Housing Finance Authority ("NHHFA"); (ii) that in connection with the award of such tax credits NHHFA shall require Grantee to enter into a Land Use Restriction Agreement between Grantee and NHHFA (the "LURA") which will subject the property described herein to restrictive covenants requiring the property to be used as affordable housing and (iii) such LURA will be recorded against the property at the time the construction financing for the affordable housing project herein described closes. Notwithstanding any other provision herein, Grantor shall immediately upon demand by Grantee execute and deliver to Grantee an instrument in form and substance satisfactory to Grantee releasing all of Grantor's rights and remedies described in this paragraph upon recording of a LURA on NHHFA's usual and customary terms relating to the property described herein.

Subject to real estate taxes for the current year, which are to be prorated as of the date of this deed.

No State of New Hampshire Documentary Stamps are required for this transaction, pursuant to RSA 78-B:2, I.

Dated and signed this 29 day of August, 2012.

MARLBOROUGH SCHOOL DISTRICT

By Michael Briggs
Its Duly Authorized Officer

Michael Briggs
Marlborough School District Chair

STATE OF NEW HAMPSHIRE
COUNTY OF CHESHIRE

This instrument was acknowledged before me on August 29, 2012 by Michael Briggs as Marlborough and duly authorized officer of Marlborough School District. School District
Chair

Sharon L Rhoades
Notary Public/Justice of the Peace

My Commission Expires: SHARON L. RHOADES, Notary Public
My Commission Expires February 9, 201

**ATTACHMENT II
SUBRECIPIENT AGREEMENT
MINIMUM TERMS AND CONDITIONS**

Grantee hereby warrants and agrees that the Subrecipient Agreement to be executed in conformance with the requirements of of Exhibit A of the Grant Agreement shall be subject to approval by CDFA and shall contain at a minimum the following terms and conditions:

1. **REPRESENTATIONS AND WARRANTIES.** Subrecipient, Southwestern Community Services and/or Marlborough Homes Associates Limited Partnership, shall represent and warrant:

1.1. It has obtained or will obtain all necessary approvals of the Plans and all necessary permits for the construction of the Project from all governmental authorities having jurisdiction over the Project;

1.2. Construction of the Project will not violate any zoning, environmental, subdivision, or land use ordinance, regulation or law; the Property conforms and complies in all material respects with all covenants, conditions, restrictions, reservations and zoning, environmental land use, and other applicable ordinances, laws, rules and regulations, federal, state or local, affecting the Property;

1.3. No litigation, claims, suits, orders, investigations or proceedings are pending or threatened against Subrecipient or affecting the Property or the Project at law or in equity or before or by any federal, state, municipal or other governmental instrumentality; there are no arbitration proceedings pending under collective bargaining agreements or otherwise; and to the knowledge of Subrecipient there is no basis for any of the foregoing;

1.4. Subrecipient has filed all federal, state and local tax returns required to be filed and has paid or made adequate provision for the payment of all federal, state and local taxes, charges and assessments;

1.5. Subrecipient is a duly organized and validly existing New Hampshire limited partnership in good standing under the laws of this state. Subrecipient has the power and authority to own its properties and to carry on the business as now being conducted and has the power to execute and deliver, and perform its obligations under this Agreement or the Mortgage;

1.6. The execution and delivery and performance by Subrecipient of its obligations under this Agreement and the Mortgage have been duly authorized by all requisite corporate action and will not violate any provision of law, any order of any court or other agency of government, or any indenture, agreement or other instrument to which Subrecipient is a party, or by which it is bound, or be in conflict with, result in a breach of, or constitute a default under, or, except as may be provided in this Agreement, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Subrecipient pursuant to any such indenture, agreement or instrument. Subrecipient is not required to obtain any consent, approval or authorization from, or to file any declaration or statement with, any governmental instrumentality or other agency in connection with or as a condition to the execution, delivery or performance of this Agreement or the Mortgage.

1.7. Subrecipient is not contemplating either the filing of a petition under any state or federal bankruptcy or insolvency laws or the liquidating of all or a major portion of its property, and Subrecipient has no knowledge of any person contemplating the filing of any such petition against it.

1.8. No statement of fact made by or on behalf of Subrecipient in this Agreement or in any certificate, exhibit or schedule furnished to Grantee pursuant thereto, contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained therein or herein not misleading. There is no fact or circumstance presently known to Subrecipient that has not been disclosed to Grantee that materially affects adversely, nor as far as Subrecipient can foresee, will materially affect adversely the Property, business, operations or considerations (financial or otherwise) of Subrecipient;

1.9. Subrecipient has complied in all material respects with all applicable statutes, regulations and rules of federal, state and local governments in respect to the conduct of its business and operations, including without

limitation all applicable environmental statutes, regulations and rules.

1.10. No Event of Default has occurred and is continuing under this Agreement and no event or condition which would, upon notice of expiration of any applicable cure, constitute an Event of Default has occurred and is continuing; Subrecipient is not in default under any note or other evidence of indebtedness or other obligation for borrowed money or any mortgage, deed to trust, indenture, loan agreement or other agreement relating thereto.

Each of the foregoing representations and warranties is true and correct as of the date of this Agreement and Subrecipient shall indemnify and hold harmless Grantee and CDFA from and against any loss, damage, or liability attributable to the breach thereof, including any and all fees and expenses incurred in the defense or settlement of any claim arising therefrom against Grantee or CDFA

2. LOAN OF CDBG FUNDS.

2.1. Subrecipient shall enter into a loan, promissory note and mortgage with Grantee and such other documents as necessary (collectively, the "Loan Documents") consistent with the applicable requirements of the Grant Agreement and Subrecipient Agreement. The Loan Documents shall specify the obligations of Subrecipient in the performance of Grant-related activities.

2.2. Grantee shall record the mortgage and note immediately upon execution of the Loan Documents and shall submit satisfactory proof thereof to CDFA.

2.3. Grantee shall notify Subrecipient in writing in the event of a default as defined in the Loan Documents and shall take all reasonable action necessary to enforce the terms and conditions of the Loan Documents in the event of such default. If a material default is not cured within 30 days of notification, Grantee shall notify CDFA of such default and shall seek immediate acceleration and repayment in full of the Loan balance. Grantee shall in good faith and with due diligence pursue its remedies under the Loan Documents and any other documents, for the benefit of CDFA.

2.4. LOAN TERMS. Grantee shall loan and Subrecipient shall borrow, up to \$467,500 for the purposes specified in the Grant Agreement. The Loan shall be for a term of forty (40) years. Annual interest rate shall be zero percent (0%). No payments shall be made during the term of the loan, unless the Subrecipient is in default of this Agreement. A balloon payment of all principal will be due at the end of the 40th year unless the Subrecipient elects a shorter term prior to the closing of the loan.

2.5. Subrecipient shall enter into a Promissory Note wherein it agrees to pay Grantee the principal and interest as provided in subparagraph 2.4. The Promissory Note shall also require Subrecipient to pay on demand all reasonable out-of-pocket costs of collection, including court costs, service fees and reasonable attorney's fees, whether or not any foreclosure or other action is instituted and late charges in the event any installment of interest or principal is not received within five (5) days after being due.

2.6. EVENTS OF LOAN DEFAULT. The occurrence of any one or more of the following events which remains uncured by Subrecipient thirty (30) days following written notice from Grantee shall constitute an event of default under the Loan Documents:

- 2.6.1. A default by Subrecipient under its non-CDBG loan agreements constituting the matching funds for this project;
- 2.6.2. A default by Subrecipient under the New Hampshire Housing Finance Authority Low-Income Housing Tax Credit program;
- 2.6.3. Failure to abide by the covenants and requirements to maintain the property for Low and Moderate Income benefit as provided in the Grant Agreement;
- 2.6.4. Failure to document the required expenditure of matching funds;
- 2.6.5. Failure to comply with the Project reporting requirements;

- 2.6.6. Subrecipient attempts to assign its rights under the Loan Documents or any advance made or to be made hereunder or any interest therein;
- 2.6.7. The Project Property is materially damaged or destroyed by fire or other casualty or cause and the insurance proceeds are inadequate to rebuild or restore the premises to their condition immediately prior to such casualty and the Subrecipient has been unable to secure other sufficient funds to complete such rebuilding or restoration
- 2.6.8. Any representation or warranty made herein or in any report, certification, or other instrument furnished in connection with the Loan Documents or Subrecipient Agreement or any advances of Funds made hereunder, by or in behalf of Subrecipient shall prove to be false or misleading in any material respect;
- 2.6.9. Any mechanics', laborers', materialmen's or similar statutory liens, or any notice thereof, shall be filed against Subrecipient and shall not be discharged within thirty (30) days of such filing;
- 2.6.10. Subrecipient shall (i) apply for or consent to the appointment of a receiver, trustee or liquidator of it or any of its property, (ii) admit in writing its inability to pay its debts as they mature, (iii) make a general assignment for the benefit of creditors, (iv) be adjudicated as bankrupt or insolvent or (v) file a voluntary petition in bankruptcy, or a petition or answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law;
- 2.6.11. A petition, order, judgment or decree shall be entered, without the application, approval or consent of Subrecipient by any court of competent jurisdiction, approving a petition seeking reorganization or approving the appointment of a receiver, trustee or liquidator of Subrecipient of all or a substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of thirty (30) days;
- 2.6.12. The dissolution, termination of existence, merger or consolidation of the business or a sale of substantially all of the assets constituting the affordable housing units of Subrecipient out of the ordinary course of business without the prior written consent of Grantee; and
- 2.6.13. Failure to remedy an ineligible expenditure of loaned funds or to reimburse Grantee or CDFA for any ineligible costs which are paid from loaned funds.

3. COVENANT OF LONG TERM AVAILABILITY FOR LOW AND MODERATE INCOME HOUSEHOLDS.

3.1. Subrecipient shall certify that one hundred percent (100%) of the persons or households residing or to reside in the 24 affordable elderly units at the Project Property upon the Project Completion Date shall be Low and Moderate Income Households and Persons as those terms are defined in State Administrative Rule Cdfa 302.32 and Cdfa 302.33.

3.2. At time of Grantee's submission of the Closeout Report to CDFA as provided in Exhibit A of the Grant Agreement, Subrecipient shall gather information on those groups deemed as "Protected" by HUD and required by the "Beneficiary Characteristics Report" as provided in the most current edition of the "CDBG Implementation Guide."

3.3. Subrecipient shall covenant and warrant that the Property acquired and developed in whole or in part with the loan funds shall remain in use as residential property and shall be made available to Low and Moderate Income Households and Persons for a period of twenty (20) years following completion of the Project (the Benefit Period) and that Subrecipient has and will continue in its Bylaws or other administrative or contractual provisions or land use restrictive covenants an adequate administrative capacity to ensure that this benefit is maintained for said period. This covenant shall survive the expiration or termination of this Agreement.

3.4. Subrecipient shall not sell, lease (other than the leasing or renting of residential units), encumber or

otherwise transfer or dispose of any part of its title or other interests in the affordable housing units constituting the Property, for the duration of the terms, conditions and assurances in this Agreement, without the approval of Grantee.

4. CONTRACTING REQUIREMENTS.

4.1. Within thirty (30) days of execution of the CDBG Grant Agreement, Subrecipient shall submit to Grantee for approval an Implementation Schedule specifying the design, engineering and construction goals to be met. The approved Implementation Schedule shall be incorporated into the Subrecipient Agreement and shall serve as a basis for enforcement of the Agreement.

4.2. No later than sixty (60) days after execution of the CDBG Grant Agreement, Subrecipient shall procure and enter into a contract with a duly licensed architect to prepare the design and construction plans for the Project as described herein (the Plans).

4.3. Upon approval of the Plans by Grantee, Subrecipient shall procure and enter into a contract for construction of the Project Improvements. Prior to execution of the contracts, Subrecipient shall submit such contracts to Grantee for its review and approval and the review and approval of CDFA.

4.4. All work shall be completed prior to the Grant Agreement Completion Date.

4.5. In its contracts for this Project, Subrecipient shall require all contractors to comply with all applicable requirements of federal, state and local laws and regulations.

4.6. The following standards shall apply to the housing units rehabilitated by Subrecipient with funds:

- 4.6.1. HUD Section 8 Existing Housing Quality Standards as listed in 24 CFR 882.109, paragraphs (a) through (l) (see Appendix 3 of the CDBG Administrative Rules) or municipal housing and/or building, electrical and plumbing codes where such codes exceed the HUD standards;
- 4.6.2. the state's life safety and energy codes; and
- 4.6.3. where applicable, the state's architectural barrier free design code.

5. MAINTENANCE OF PROPERTY.

5.1. Subrecipient shall maintain, keep and preserve in good working order and condition all of its property and assets necessary or useful in the proper conduct of its business and operation of the affordable/transitional housing situated at the Property.

5.2. Subrecipient shall continue to operate and maintain, keep and preserve in good working order and repair the Project improvements at the Property, and shall operate the Project improvements in compliance with all applicable federal, state and local statutes, regulations, rules and orders.

6. MAINTENANCE OF LEGAL EXISTENCE; BY-LAWS.

6.1. Subrecipient shall preserve and maintain its legal existence and good standing and its registration in New Hampshire as required to do business.

6.2. Subrecipient and Grantee agree that Subrecipient's Certificate of Limited Partnership and Limited Partnership Agreement, ("LPA") provide an adequate administrative mechanism for assuring maintenance of long term affordability for Low and Moderate Income Households as required pursuant to this Agreement. Any proposed amendment to such documents shall be submitted by Subrecipient to Grantee for its review and approval prior to adoption. This paragraph shall survive the termination of this agreement for a period not to exceed twenty (20) years.

6.3. ADDITIONAL EVENTS OF DEFAULT. The occurrence of any of the following events shall constitute an Event of Default under the Subrecipient Agreement:

Failure of Subrecipient to complete the Project satisfactorily in accordance with the approved Plans or on schedule or failure to submit any report, documentation or other instrument required under this Agreement;

6.4. The Property shall cease to be operated as residential units or Subrecipient shall fail to comply with the requirement of long term affordability for Low and Moderate Income Households as provided herein;

6.5. Subrecipient attempts to assign its rights under this Agreement or any advance made or to be made hereunder or any interest therein, or if the Property is conveyed or encumbered in any way without the prior written consent of Grantee;

6.6. Any survey, report or examination discloses that the Project or Property or any portion thereof encroaches upon or projects over a street or upon or over adjoining property or violates any setback or other restriction, however created, or any zoning regulations or any building restriction of any governmental authority having jurisdiction with respect to the Property;

6.7. Subrecipient shall default in the due observance or performance of any covenant, condition, assurance or agreement to be observed or performed by Subrecipient under this Agreement, subject to the written notice and cure provisions provided in Section 2.6.

6.8. Any cessation occurs at any time in construction of the Project for more than one (1) month except for causes beyond the control of Subrecipient, or if any substantial change is made in the schedule for the construction or in the approved Plans without the prior approval of Grantee.

7. GRANTEE'S RIGHTS AND REMEDIES UPON DEFAULT.

7.1. Upon the occurrence of any Event of Default, Grantee may take any one, or more, or all, of the following actions:

7.1.1. Give Subrecipient a written notice of default specifying the Event of Default and requiring it to be remedied within thirty (30) days from the date of notice, and if the Event of Default is not timely remedied, terminate this Agreement, effective immediately upon giving notice of termination;

7.1.2. Give Subrecipient a written notice of default specifying the Event of Default and suspending all payment of loan funds to be made pursuant to this Agreement until such time as Grantee determines the Event of Default has been cured;

7.1.3. Set off against any other obligations Grantee may owe to Subrecipient for any damages Grantee may suffer by reason of any Event of Default; or

7.1.4. Treat the Agreement as breached and pursue any of its remedies at law or in equity or both, to include return of loaned funds and lien foreclosure.

7.2. Subrecipient agrees that Grantee and CDFA have a right to seek judicial enforcement with regard to any matter arising with respect to this Agreement, to include the assurances, covenants and other conditions which extend beyond the termination or completion date of this Agreement.

8. REPORTING REQUIREMENTS; CLOSEOUT AGREEMENT.

8.1. The Subrecipient shall certify the number and percentage of Low and Moderate Income Households and Persons benefiting from this project. For reporting purposes, The Subrecipient shall submit to Grantee the information on "Protected" groups as required by the "Beneficiary Characteristics Report" as provided in the most current edition of the CDBG Implementation Guide for CDBG projects.

9. ACCOUNTING, AUDIT AND RECORDKEEPING REQUIREMENTS.

9.1. Subrecipient shall keep all project-related accounts and records which fully disclose the amount and disposition by Subrecipient of the loaned funds, the total cost of the Project, and the amount and nature of any portion of the Project costs supplied by other sources, and such other financial records pertinent to the

Project. Accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984. Records to be maintained include Project fiscal records consisting of all books, documents, ledgers, systems and expenses incurred, including but not limited to purchase, requisitions, orders, invoices, vouchers, bills and receipts and all lien documents.

9.2. All of the records, documents and data described above and all income verification documents shall be kept during the performance of the Project and for three (3) years after its completion or until the satisfactory completion of an audit, whichever is later.

9.3. Subrecipient shall make available to Grantee, CDFA and HUD or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of Subrecipient pertinent to this Project.

10. INDEMNIFICATION. Subrecipient shall defend, indemnify and hold harmless Grantee, CDFA and the State of New Hampshire, their officers and employees, from and against any and all losses suffered by Grantee, CDFA or the State, their officers or employees, and any and all claims, liabilities or penalties asserted against Grantee, CDFA or the State, their officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of or claimed to arise out of the acts or omissions of the Subrecipient. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which is hereby reserved to the State. This covenant shall survive the termination or expiration of the Subrecipient Agreement.

11. INSURANCE.

11.1. The Subrecipient shall, at its sole expense, obtain and maintain in force insurance in such amounts and covering such risks as are customary for entities engaged in the same or similar business to include landlord insurance and property insurance on the Project Property in commercially reasonable amounts and sufficient to cover replacement costs of the Improvements.

11.2. Policies shall name Grantee as an additional insured and loss payee and shall be in the standard form employed in the State of New Hampshire, issued by underwriters acceptable to CDFA, and authorized to do business in this State. Each policy shall contain a clause prohibiting cancellation or modification of the policy earlier than ten (10) days after written notice thereof has been received by Grantee and CDFA.

11.3. The Subrecipient shall provide Grantee with certificates of insurance satisfactory to Grantee which evidences compliance with this Section.

12. MISCELLANEOUS PROVISIONS.

12.1. The Subrecipient shall comply with all applicable federal, state and local laws, statutes, regulations, executive orders and rules as they relate to the application, acceptance and use of funds for this Project.

12.2. The Subrecipient shall not assign or transfer any of its rights or obligations under this Agreement without the prior written consent of CDFA, and any attempted assignment or transfer without such consent shall be ineffective, null, void, and of no effect. The Agreement and the terms, covenants, warranties, assurances, and conditions contained therein shall extend to, include and inure to the benefit of and be binding upon the respective successors and assigns of Grantee or Subrecipient.

12.3. No amendment or modification of the Subrecipient Agreement shall be effective unless it is in writing and executed by both parties and approved by CDFA.

12.4. The Subrecipient shall maintain, keep and preserve in good working order and condition the Properties improved and managed under this Agreement.

12.5. Where the Grant Agreement or Subrecipient Agreement is terminated or the Project is otherwise terminated due to a default, inability to perform or reason other than project completion and Grant Funds (under the Grant Agreement) are required to be returned by Grantee or by Subrecipient, the disposition of Grant Funds (under the Grant Agreement) to be returned shall be determined solely by CDFA.

CERTIFICATE OF COVERAGE

This certificate evidences the limits of liability in effect at the inception of the Member Agreement(s) described below. This certificate is issued as a matter of information only and confers no rights on the certificate holder and does not amend, extend or alter the coverage afforded by the Member Agreement(s); except to the extent provided in the additional covered party box or loss payee box below, if checked.

THIS IS TO CERTIFY THAT THE MEMBER NAMED BELOW IS A PARTICIPATING MEMBER OF COMPANY A AND THAT A MEMBER AGREEMENT(S) HAS BEEN ISSUED TO THE MEMBER FOR THE AGREEMENT TERM(S) INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE COVERAGE AFFORDED BY THE MEMBER AGREEMENT(S) IS SUBJECT TO ALL THE EXCLUSIONS, EXTENSIONS, TERMS AND CONDITIONS OF SUCH MEMBER AGREEMENT(S). AGGREGATE LIMITS MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Participating Member: Town of Marlborough Member Number: 032-090186 - 13		Company Affording Coverage (the "Company"): Local Government Center Property-Liability Trust, LLC P.O. Box 617, Concord, NH 03302-0617		
Coverage (Occurrence basis only):	Effective Date (mm/dd/yy)	Expiration Date (mm/dd/yy)	Limits (subject to applicable NH statutory limits)	
<input checked="" type="checkbox"/> General Liability (Member Agreement Section III.A)	7/1/2012	6/30/2013	Each Occurrence \$ 5,000,000	
			General Aggregate \$	
			Personal & Adv Injury \$	
			Med Exp (any one person) \$	
			Products -Comp/Op Agg \$	
			Fire Damage (each fire) \$	
<input checked="" type="checkbox"/> Automobile Liability (Member Agreement Section III.A) <input type="checkbox"/> Any Auto <input type="checkbox"/> All Owned Autos <input type="checkbox"/> Scheduled Autos <input type="checkbox"/> Hired Autos <input type="checkbox"/> Non-Owned Autos <input type="checkbox"/> Other _____	7/1/2012	6/30/2013	Each Occurrence \$ 5,000,000	
			Bodily Injury (per person) \$	
			Bodily Injury (per accident) \$	
			Property Damage (per accident) \$	
			Excess Liability	Each Occurrence \$ N/A
			Aggregate \$ N/A	
<input checked="" type="checkbox"/> Property (All Risk including Theft) (Member Agreement Section I) Deductible: \$1,000	7/1/2012	6/30/2013	\$Per scheduled limits and Member Agreement	
<input checked="" type="checkbox"/> Workers' Compensation (Coverage A) Employers' Liability (Coverage B)	7/1/2012	6/30/2013	Coverage A: Statutory	
			Cov. B: Each Accident \$ 2,000,000	
			Disease - Each Employee \$ 2,000,000	
			Disease - Policy Limit \$ 2,000,000	
Description: Proof of Coverage				

CANCELLATION: If any of the above coverages under the Member Agreement are cancelled before the expiration date, the Company will endeavor to mail 30 days written notice to the Certificate Holder named below, but failure to mail such notice shall impose no obligation or liability of any kind upon the Company.

<input type="checkbox"/> Additional Covered Party <input type="checkbox"/> Loss Payee, as his, her or its interests appear	
<i>Coverage for the Additional Covered Party is limited to "bodily injury" or "property damage" caused by, and only to the extent of, the sole negligence of the "Member," and no protection is available for the negligence of others, including the Additional Covered Party and its directors, officers, employees or agents. Available limits of coverage are shared between the "Member" and the Additional Covered Party.*</i>	
Certificate Holder: Community Development Finance Authority 14 Dixon Avenue Concord NH 03381	Companies By: <u>Debra A. Lewis</u> Authorized Representative Date Issued: <u>1/25/2013</u>
Please direct inquiries to: Debra A. Lewis 603.224.7447 x3332	

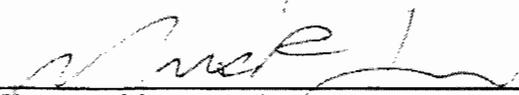
*Terms in quotes are defined in the Member Agreement.

CERTIFICATION OF GRANTEE'S ATTORNEY

I, Matthew R. Serge acting as Attorney for Town of Marlborough New Hampshire do hereby certify:

That in my opinion the Grantee is empowered to enter into the foregoing Grant Agreement under the laws of the State of New Hampshire. Further, I have examined the foregoing Grant Agreement and the actions taken by said Grantee and have determined that Grantee's official representative has been duly authorized to execute this Grant Agreement and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and applicable federal laws. In addition, for grants involving projects to be carried out on property not owned by Grantee, there are no legal impediments that will prevent full performance by the Grantee. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of Grantee in accordance with the terms thereof.

Dated at Concord this 30th day of January 2003.


Signature of Grantee's Attorney

CERTIFICATE

I, Ellen Orkins, Town Clerk of Marlborough, New Hampshire do hereby certify that: (1) at the public hearing held on 6/4/2012, the Board of Selectmen voted to submit an application for Community Development Block Grant funds and if awarded; (2) enter into a contract with the Community Development Finance Authority and further authorize the Chairman, Board of Selectmen to execute any documents which may be necessary to effectuate this contract or any amendments thereto; (3) I further certify that this authorization has not been revoked, annulled or amended in any manner whatsoever, and remains in full force and effect as of the date hereof; and (4) the following person has been appointed to and now occupies the office indicated under item (2) above:


Gina Paight, Chairman, Board of Selectmen
Name and Title of Officer Authorized to Sign

IN WITNESS WHEREOF, I have hereunto set my hand as the Town Clerk of Marlborough, New Hampshire this 4th day of February, 20 13.


Ellen Orkins, Town Clerk

Town of Marlborough – Marlborough Homes - \$492,500 – (Housing)

The Town of Marlborough seeks CDBG funds on behalf of Southwestern Community Services (SCS), a community development corporation, to create 24 apartments for elderly persons in the Town of Marlborough.

In 2007 the residents of the Town of Marlborough voted to build a new school, which raised concerns about the future redevelopment options for the original school building. Residents were concerned that the large, bulky building would be difficult to re-use. The Town and SCS have partnered on this proposed redevelopment plan to turn the former school building into 24 affordable senior housing units.

This project seeks CDBG funding for property acquisition and site work to facilitate the development. Specifically the project would create:

- 24 units of housing for persons and households at 60% or less than Median Family Income.
- Of the 24 units to be created, half would be limited to households under 50% of the area Median Family Income and half would be limited to households at 60% of the area Median Family Income.
- All of the units will be accessible by ADA standards and 4 units will be fully accessible.
- These one- and two-bedroom unit homes will range from approximately 830 to over 950 square feet.
- The rental costs will include all utilities.

Housing for this demographic is needed nationwide and the partnership between the Town of Marlborough and SCS is proactively addressing this need within the region, Cheshire County, and the Town of Marlborough. When complete this project will provide a 100% income benefit for the elderly of very- low- and extremely-low-income households. This housing will serve the poorest of the region's elderly population often at risk of institutionalization or homelessness.

When the housing is complete and occupied SCS will operate it in a way that insures that residents stay active and connected to supportive services that include activities that will be directly provided by SCS and others that will be coordinated through SCS' network of community based providers.

The continuum of services provided by SCS and its community-based providers will include,

- Resource and referral services,
- elder care health management,
- and education and advocacy.

The functional levels of the residents will range from high functioning elders to the frail and disabled elder. As such, SCS will provide and/or coordinate a full range of supportive services to meet the diverse needs of the residents of this project so that they can live comfortably for longer periods of time, forestalling premature placement into long term care or assisted living facilities.

The proposed site is within the Keene Urban Cluster which is important regarding appropriate placement of the beneficiary population in respect to transportation and service needs. When implemented, this project will add to the region's most densely populated area where the need for transportation is minimized and goods and services are readily available. In conclusion, this project will provide an essential and demanded type of housing in an existing building, enriching the neighborhood it sits within and adding to Marlborough's tax base.

Sources and Uses

Sources	CDBG	NHHFA LIHTC	NHHFA HOME	
Uses				Total Uses \$
Acquisition		\$50,000		\$50,000
Site Improvements	\$467,500	\$58,000		\$525,500
Construction		\$2,402,500	\$679,500	\$3,082,000
Architectural/Engineering		\$214,000	\$25,000	\$239,000
Professional Fees		\$415,000		\$415,000
Construction Financing		\$163,500		\$163,500
Permanent Financing			\$65,900	\$65,900
Soft costs		\$85,000	\$99,600	\$184,600
Reserves		\$162,000		\$162,000
Equipment/ Furnishings		\$20,000		\$20,000
CDBG Admin Costs	\$25,000			\$25,000
Pending Sources	\$492,500	\$3,570,000	\$870,000	\$4,932,500
Committed Sources				
Total Sources	\$492,500	\$3,570,000	\$870,000	\$4,932,500

Administration breakdown

Grant Administrator	\$17,500
Legal	\$1,500
Audit	\$2,000
Application Writing	\$4,000
Total	\$ 25,000

Summary

- The application scored **314** points;
- The project effectively reuses a former public school to create 24 units for elderly residents;
- The project would attract nearly \$4.5M in matching funds;
- The project will add to Marlborough's tax base;
- 100% of the people benefitting from this project will be of very-low or low-income.