RAPID CITY VISION FUNDS AWARD AGREEMENT

On January 10, 2022, the Rapid City Council ("City") approved an award of Rapid City Vision Funds in the amount of $5,000,000 (the "Award") to the Rapid City Strategic Housing Trust Fund ("Trust Fund"), administered and managed by Black Hills Area Community Foundation ("BHACF"), Awardee. The City and Awardee agree to the following terms and conditions of this agreement ("Award Agreement").

AWARD DETAILS

1. Purpose. The award is a one-time award to the Rapid City Strategic Housing Trust Fund to be managed and administered by Black Hills Area Community Foundation, a Rapid City area non-profit. The award will be used to support local community housing needs primarily through no-low interest loans and loan guarantees. The Trust Fund shall be an on-going and continually renewable source of revenue from various sources to meet, in part, the housing needs of middle and lower income households in Rapid City. The focus will be primarily on assisting the rental housing market with particular emphasis on multi-family rental housing. The Trust Fund is to provide loans and grants to housing developers, service providers, and others interested in addressing the strategic housing shortage in the Rapid City area.

2. Award Amount and Payment Schedule. The Award is in the amount of $5,000,000 (Five Million and 00/100 Dollars) payable in equal monthly payments of Four Hundred Sixteen Thousand Six Hundred Sixty Six Dollars and 66/100 ($416,666.66) for calendar year 2022. The first payment will include payments for months in 2022 prior to the execution of this Award Agreement. Award payments will generally begin within 45 days of the execution of this Award Agreement. The City will notify Awardee if there is a deviation from this payment schedule.

CONDITIONS

1. Awardee shall expend Vision Fund Award funds exclusively for the stated purpose described in the Project Application. Vision Fund expenditures will be restricted to projects within the Rapid City limits and will be accounted for as a separate sub-fund of the Rapid City Strategic Housing Trust Fund at the Black Hills Area Community Foundation. Awardee agrees to return any portion of the Vision Fund Award funds not used for the stated purpose of the Project Application or not utilized within the Vision Fund period specified in the Project Application. If an itemized budget was included in the Project Application, Awardee acknowledges that either the Vision Funds will be expended as set forth in the Project Application budget or that any deviation from the Project Application budget will not exceed 10%. Transfers between line items in the Project Application budget in excess of 10% must be approved by the City. Any unexpended funds will be returned to the City, unless an extension is approved in writing by the City.

2. Awardee warrants and represents that the Internal Revenue Service has recognized Awardee as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code and "not a private foundation," within the meaning of Code Section 509(a), or in the absence of such a determination, that you are a state or any political subdivision thereof within the meaning of Code Section 170(c)(1), or a state college or university within the meaning of Code Section 511(a)(2)(B) (referred to hereafter as a "Public Charity"). Awardee will immediately inform the City of any change in or challenge to its status as a Public Charity. Awardee warrants and represents receipt of this Award will not adversely affect Awardee’s status as other than a private foundation within the meaning of Section 509(a) of the Internal Revenue Code of 1986 and any amendments thereto, also known as “tipping.”
3. Awardee acknowledges that the City has not earmarked the use of the Vision Fund Award funds or any portion thereof and no funds received through this Award will be used for: Direct religious activities, political campaign activities to influence the outcome of a public election, or direct or grass roots lobbying intended to influence specific legislation. Consistent with Executive Order 13224 and the Patriot Act, no portion of the Award will be used to support terrorism or will be diverted to other individuals or organizations which have assisted, sponsored, or provided financial, material, or technological support for terrorists or persons associated with terrorists.

4. In the case of any violation by Awardee of the terms and conditions of this Vision Funds Award Agreement, including, but not limited to, a failure to use the Award funds in accordance with the Project Application, not utilizing the Award funds within the period specified in the Project Application, or in the event of any change in, or challenge by the Internal Revenue Service to, Awardee’s status as a Public Charity, the City reserves the right in its absolute discretion to terminate this Award Agreement.

5. Awardee will notify the City of any change of its key personnel during the term of this Award Agreement. In addition, Awardee agrees to inform the City of any deviation in the timing or goals as set forth in the Project Application.

6. Both the quality of work done and Awardee’s progress toward achieving the goals set forth in the Project Application will be reviewed by the City. Upon request by the City, Awardee must provide both narrative and financial reports. The reports should include: Project objectives, outputs and outcomes, formative and summative evaluation data, and an explanation of how Award funds were expended to attain the objectives.

7. Awardee will maintain internal accounting controls to reasonably protect its assets and maintain financial books and records. Upon request, Awardee will make financial records and supporting documentation available to the City for inspection. Awardee will inform the City immediately upon the discovery of fraud or embezzlement involving the City or its finances.

8. The City encourages Awardee to publicize the Award. However, the City requests that no press releases or any public announcements be issued or made without previously consulting the City. Please contact Darrell Shoemaker, the City Communications Coordinator for any and all press release or public announcement review and approvals.

9. The City may use information regarding this Award, including the amount and purpose of the Award, any photographs Awardee may have provided, Awardee’s logo or trademark, or other information or materials about Awardee and its activities, in the City’s public reports, newsletters, and news releases. The use of the name of the Awardee in the City’s publications is for example only and does not convey or imply that the City will make future awards to the Awardee.

10. Failure of Awardee may terminate this Award Agreement and return of any award funds received by Awardee may be requested if any of the following occur: (1) Awardee fails to comply with any portion of this Award Agreement; (2) Any malfeasance by Awardee regardless of whether or not it is related to this Award Agreement; (3) A substantial change in the purpose of objective of Awardee; or (4) A substantial change in the purposes for which the Award was awarded.

11. The failure of either party to insist upon the strict performance of any of the terms, conditions and provisions of this Award Agreement shall not be construed as a waiver or relinquishment of future compliance therewith, and said terms, conditions and provisions shall remain in full force and effect. No waiver of any term or condition of this Award Agreement on the part of either party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such party.
12. This Award Agreement shall be governed and construed in accordance with the laws of the state of South Dakota, without regard for its choice-of-law principles, and all claims relating to or arising out of this Award Agreement, or the breach of the terms thereof, whether sounding in contract, tort or otherwise, shall likewise be governed by the laws of the state of South Dakota, without regard for its choice-of-law principles.

Please signify Awardee's acceptance of the foregoing terms and conditions by having a duly authorized officer sign a copy of this Award Agreement.

CITY OF RAPID CITY

__________________________  _________________________
Steve Allender, Mayor       Date

ATTEST:

__________________________  _________________________
Pauline Sumption, Finance Director Date

ACCEPTED:

BLACK HILLS AREA COMMUNITY FOUNDATION

__________________________  _________________________
Liz Hamburg, Executive Director Date