

**AGENDA ITEM SUMMARY**

DATE: February 28, 2011

DEPARTMENT: Finance

DEPT. HEAD SIGNATURE: HD

**SUBJECT:** Sub-award Agreement with the Environmental Resource Center (ERC).

**AUTHORITY:**  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

The Agreement with the ERC includes, but is not limited to, the US EPA's regulations as well as the scope of work for implementation of education and outreach activities pertaining to the Hailey Community Climate Challenge (a grant award recently accepted by the City). The Agreement is necessary to ensure that all requirements and deliverables of the Challenge are met. Exhibit B has not been attached to this agreement, but can be found attached to Mt. Ride's agreement (also on the consent agenda); Exhibit B is the same document for all three sub-award agreements.

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:** Casele # \_\_\_\_\_  
Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_  
Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_  
Staff Contact: \_\_\_\_\_ Phone # \_\_\_\_\_  
Comments: \_\_\_\_\_

**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS:** (IF APPLICABLE)

- |  |  |   |
|--|--|---|
| <input checked="" type="checkbox"/> City Administrator | <input type="checkbox"/> Library             | <input type="checkbox"/> Safety Committee |
| <input checked="" type="checkbox"/> City Attorney      | <input type="checkbox"/> Mayor               | <input type="checkbox"/> Streets          |
| <input type="checkbox"/> City Clerk                    | <input type="checkbox"/> Planning            | <input type="checkbox"/> Treasurer        |
| <input type="checkbox"/> Building                      | <input type="checkbox"/> Police              | _____                                     |
| <input type="checkbox"/> Engineer                      | <input type="checkbox"/> Public Works, Parks | _____                                     |
| <input type="checkbox"/> Fire Dept.                    | <input type="checkbox"/> P & Z Commission    | _____                                     |

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Motion to authorize the Mayor to sign the agreement.

**ADMINISTRATIVE COMMENTS/APPROVAL:**

City Administrator \_\_\_\_\_ Dept. Head Attend Meeting (circle one) Yes No

**ACTION OF THE CITY COUNCIL:**

Date \_\_\_\_\_

City Clerk \_\_\_\_\_

**FOLLOW-UP:**

\*Ord./Res./Agmt./Order Originals: Record  
Copies (all info.): \_\_\_\_\_  
Instrument # \_\_\_\_\_

\*Additional/Exceptional Originals to: \_\_\_\_\_  
Copies (AIS only)

## Hailey Community Climate Challenge Environmental Resource Center Subaward Agreement

This Agreement (“**Agreement**”) is entered into this \_\_\_\_ day of February, 2011, by and between the City of Hailey, a municipal corporation (“**City**”) and Environmental Resource Center, an Idaho non-profit corporation (“**ERC**” or “**Subawardee**”).

### RECITALS

- A. Hailey is a municipal corporation duly organized and existing under the laws of the State of Idaho.
- B. ERC is an Idaho non-profit corporation. ERC acknowledges that it is not a foreign or international organization and that the work to be performed in this Agreement will not be performed in a foreign country.
- C. On July 15, 2010, the City of Hailey applied for a grant, entitled the Hailey Community Climate Challenge (“**Grant**”) from the Environmental Protection Agency (“**EPA**”). The EPA has awarded the City the Grant.
- D. The City of Hailey was assisted by ERC in the preparation of the Grant.
- E. On February 14, 2011 the City of Hailey executed a Cooperative Agreement with EPA and committed to the tasks and projects described in the Grant application.
- F. Under the Grant award, ERC shall implement a deconstruction/material salvage program within the City of Hailey.
- G. In consideration of the recitals set forth herein, the City and ERC now desire to enter into the Agreement as set forth herein.

### AGREEMENT

NOW, THEREFORE, IN CONSIDERATION of the above recitals which are incorporated below, and of the mutual covenants and agreements herein contained the City and ERC agree as follows:

1. Responsibility. The City retains primary responsibility for ensuring successful completion of the tasks and projects described in the Grant. ERC will work in close coordination with city staff in implementing ERC’ scope of work described in the Grant.
2. Scope of Work. ERC agrees to carry out the scope of work as outlined in the attached **Exhibit “A.”** The scope of work shall not be modified, altered or

amended in any manner without the prior consent of the City and EPA, in accordance with 40 CFR Parts 30.25 and 31.30, as applicable.

3. Compliance with Federal Requirements. Subawardee agrees to comply with all applicable rules, regulations and statutes, and the Administrative Conditions described in the Cooperative Agreement, attached hereto as **Exhibit "B."** The Administrative Conditions include but are not limited to the following:
  - a) Subawardee shall not, directly or indirectly, provide funds from the Grant to the Association of Community Organizations for Reform Now (ACORN), or its subsidiaries.
  - b) Subawardee shall comply with EPA's program for Utilization of Minority and Women's Business Enterprises (MBE/WBE) in compliance with 40 CFR, Part 33. Subawardee will coordinate its procurement process with and receive consent from the city prior to any procurement action.
  - c) Subawardee shall not use any funds from the Grant to engage in lobbying of the Federal Government or in litigation against the United States, unless authorized under existing law.
  - d) EPA has the right to reproduce, publish, use and authorize others to use copyrighted works or other data developed under the Cooperative Agreement for federal purposes.
  - e) Subawardee has not been and shall not be during the term of this Agreement suspended or debarred from conducting business with the federal government. Subawardee further certifies that they will not engage any other vendor, subcontractor, etc., who has been or would be during the term of this Agreement suspended or debarred. Subawardee may access the Excluded Parties List System at [www.epls.gov](http://www.epls.gov) to determine suspended and debarred parties.
  - f) Subawardee shall ensure that there is compliance with the standards in Section 210(a) – (d) of OMB Circular A-133 and that the funds paid under this Agreement are not used to acquire commercial goods or services for Subawardee.
  - g) Subawardee shall ensure that expenses and costs to be paid by funds from the Grant are necessary, reasonable and allocable.
  - h) Subawardee shall monitor the performance of any person or entity which may receive funds from the Grant and ensure any such person or entity complies with all applicable regulations, statutes and Administrative Conditions.

- i) Subawardee shall ensure that management fees and similar charges in excess of direct costs and approved indirect rates are not allowable and not paid from the funds from the Grant.
  - j) Subawardee shall ensure that it and any of its employees comply with federal law prohibiting trafficking in persons, more particularly described in condition no. 17 of the Administrative Conditions.
  - k) Subawardee shall not use the EPA logo unless the City expressly consents and unless it is accompanied by a statement indicating that “[t]his publication was developed under Assistance Agreement No. AF-83494301-0 awarded by the U.S. Environmental Protection Agency. It has not been formally reviewed by EPA. The views expressed in this document are solely those of the City of Hailey, ID and EPA does not endorse any products or commercial services mentioned in this publication.”
  - l) Subawardee shall not pay for the travel of federal employees or for other costs associated with the Grant, unless federal agency is selected through the procurement process to carry out some of scope of work.
4. Payment Terms. ERC shall be reimbursed for allowable costs from the funds from the Grant in an amount not to exceed \$30,934.00. Invoices may be submitted monthly, as appropriate, along with supporting documentation of actual costs. ERC acknowledges that the City has notified ERC that it may not receive any funds from the Grant unless ERC has provided the City its Data Universal Numbering System (DUNS) number. ERC’s DUNS number is 149-206-901.
5. In-Kind Donations. ERC shall provide \$6,000 of in kind labor.
6. Reports. ERC will submit quarterly progress reports to the City, which are due 15 days after the end of each federal fiscal quarter (federal fiscal quarters end the last day of March, June, September and December). Quarterly reports must include the following information:
- a. A comparison of actual accomplishments with the anticipated outputs/outcomes specified in the EPA Cooperative Agreement;
  - b. The reasons why anticipated outputs/outcomes were not met; and
  - c. Other pertinent information, including when appropriate, analysis and information of cost overruns or high unit costs.
7. Environmental Results – Outcomes, Outputs and Performance Measures. The City identified six outcomes with associated performance measures in the application for the Grant. In addition to the reporting requirements in paragraph 6, above, ERC will be responsible for assisting with tracking specific results in order to report on the outcomes to EPA. The list below includes only the outcomes for which ERC will assist in tracking.

- a. Outcome 6: Change perceptions of what small communities can do to reduce GHG's. Measure: Assist with tracking number of videos and project booklets disseminated and number of workshops attended by officials and staff from other jurisdictions. Assist with developing and implementing feedback mechanism so other small towns can share how the City's work helped them.
  - b. Outputs are the tangible deliverables listed in the City's Grant application. Production of deliverables, on time, is the measure of success with outputs. ERC shall adhere to, and report on progress against, the project schedule.
8. Project Meetings & Communication. ERC will attend bi-weekly project coordination meetings and other meetings as necessary to carry out this Agreement effectively.
9. City Staff and ERC Staff and Roles.  
City:  
Tom Hellen, Project Manager  
Mariel Platt, Project Coordinator / Sustainability Coordinator  
Tracy Anderson, Grant Administrator / Project Support
- The Project Coordinator is the communication hub for the project, and will be the primary communication point for ERC.
- ERC:  
Craig Barry, Executive Director
10. Recycled Paper. ERC agrees to use recycled paper and double-sided printing for all reports which are prepared as a part of this Agreement.
11. Inventions. Subawardee understands and acknowledges that any rights to inventions made under the Grant are subject to the provisions of 37 CFR, Part 401.
12. Miscellaneous Provisions.
- a) Time. Time is of the essence of this Agreement.
  - b) Waiver. Failure of either party at any time to require performance of any provision of this Agreement shall not limit the party's right to enforce the provision, nor shall any waiver of any breach of any provision be a waiver of any succeeding breach of any provision or a waiver of the provision itself for any other provision.

- c) Assignment. Except as otherwise provided within this Agreement, neither party hereto may transfer or assign this Agreement without prior written consent of the other party.
- d) Attorney's Fees. In the event of any dispute with regard to the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover his/her reasonable costs and attorneys' fees incurred therein, whether or not a lawsuit is actually filed, and on any appeals, and in any bankruptcy proceeding.
- e) Entire Agreement. This Agreement contains the entire understanding between and among the parties and supersedes any prior understandings and agreements among them respecting the subject matter of this Agreement.
- f) Further Action. The parties hereto shall execute and deliver all documents, provide all information and take or forbear from all such action as may be necessary or appropriate to achieve the purposes of this Agreement.
- g) Counterparts. This Agreement may be executed in several counterparts and all so executed shall constitute one Agreement, binding on all the parties hereto even though all the parties are not signatories to the original or the same counterpart.
- h) Parties in Interest. Nothing herein shall be construed to be to the benefit of any third party, nor is it intended that any provision shall be for the benefit of any third party.
- i) Remedies. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude nor waive its rights to use any or all other remedies. Any rights provided to the parties under this Agreement are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.
- j) Severability. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.
- k) Authority. Each signatory agrees that he or she has full authority and consent to sign this Agreement.
- l) Amendment. This Agreement may be revised, amended, or canceled in whole or in part, only by means of a written instrument executed by both parties hereto.

- m) Interpretation. This Agreement shall be liberally construed in accordance with the general purposes of this Agreement and interpreted and enforced under the laws of the State of Idaho. No presumption shall exist in favor of or against any party to this Agreement as the result of drafting and preparing this Agreement. The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of the Agreement or any provisions of the Agreement.
- n) Partnership. The Parties do not intend to create through this Agreement any partnership, corporation, employer/employee relationship, joint venture or other business entity or relationship other than that of independent contractor.

IN WITNESS WHEREOF, the parties, having been duly authorized, have hereunto caused this Agreement to be executed, on the day and year first above written, the same being done after public hearing, notice and statutory requirements having been fulfilled.

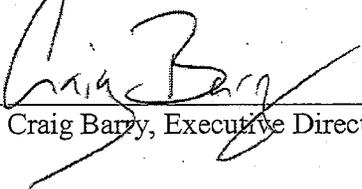
CITY OF HAILEY:

Attest:

By: \_\_\_\_\_  
Richard L. Davis, Mayor

\_\_\_\_\_  
Mary Cone, City Clerk

ENVIRONMENTAL RESOURCE CENTER, INC.

  
By: Craig Barry, Executive Director

2-24-11

## EXHIBIT A

### Hailey Community Climate Challenge Scope of Work

#### ENVIRONMENTAL RESOURCE CENTER OUTREACH, EDUCATION & REPLICABILITY

The outreach and education scope of work includes the following:

1. Work with city staff to develop a project how-to booklet that includes all elements tackled under the grant project. The booklet will be available free of charge by download from partner websites and in hard copy format.
2. Assist city staff and the filmmaker in production of the documentary film.
3. Assist city staff with coordination and development of all 21 project workshops.
4. Assist city staff with coordination and development of three on-site green building demonstrations and four green building demonstration post-construction tours.
5. Assist city staff with development of one GHG/LEED interpretive panel to be installed in the interpretive center.
6. Work with city staff and the Building Material Thrift Store to develop one deconstruction/salvage brochure and one enhanced deconstruction/salvage website.
7. Work with city staff and Mountain Rides to develop one member recruitment brochure, one member web page and one kick-off event.
8. Work with city staff and project partners to coordinate all advertising for workshops, the bike share system and the bike share kick-off event.
9. Work with city staff on a regional energy plan.
10. Work with city staff to develop a construction recycling fact sheet.

**AGENDA ITEM SUMMARY**

DATE: February 28, 2011

DEPARTMENT: Finance

DEPT. HEAD SIGNATURE: HA

**SUBJECT:** Sub-award agreement with the Building Material Thrift Store (BMTS).

**AUTHORITY:**  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

The Agreement with the BMTS includes, but is not limited to, the US EPA's regulations as well as the scope of work for implementation of a construction material recycling pilot program and purchases to enhance its deconstruction/material salvage operation, as specified by the Hailey Community Climate Challenge (a grant award recently accepted by the Council). The Agreement is necessary to ensure that all requirements and deliverables of the Challenge are met. Exhibit B has not been attached to this agreement, but can be found attached to Mt. Ride's agreement (also on consent agenda); Exhibit B is the same document for all three sub-award agreements.

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:** Casele # \_\_\_\_\_  
Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_  
Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_  
Staff Contact: \_\_\_\_\_ Phone # \_\_\_\_\_  
Comments: \_\_\_\_\_

**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS:** (IF APPLICABLE)

<input checked="" type="checkbox"/> City Administrator	<input type="checkbox"/> Library	<input type="checkbox"/> Safety Committee
<input checked="" type="checkbox"/> City Attorney	<input type="checkbox"/> Mayor	<input type="checkbox"/> Streets
<input type="checkbox"/> City Clerk	<input type="checkbox"/> Planning	<input type="checkbox"/> Treasurer
<input type="checkbox"/> Building	<input type="checkbox"/> Police	_____
<input type="checkbox"/> Engineer	<input type="checkbox"/> Public Works, Parks	_____
<input type="checkbox"/> Fire Dept.	<input type="checkbox"/> P & Z Commission	_____

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Motion to authorize the Mayor to sign the agreement.

**ADMINISTRATIVE COMMENTS/APPROVAL:**

City Administrator \_\_\_\_\_ Dept. Head Attend Meeting (circle one) Yes No

**ACTION OF THE CITY COUNCIL:**

Date \_\_\_\_\_

City Clerk \_\_\_\_\_

**FOLLOW-UP:**

\*Ord./Res./Agmt./Order Originals: Record  
Copies (all info.): \_\_\_\_\_  
Instrument # \_\_\_\_\_

\*Additional/Exceptional Originals to: \_\_\_\_\_  
Copies (AIS only)

## Hailey Community Climate Challenge Building Material Thrift Store Subaward Agreement

This Agreement (“**Agreement**”) is entered into this \_\_\_\_ day of February, 2011, by and between the City of Hailey, a municipal corporation (“**City**”) and Building Material Thrift Store, a non-profit corporation (“**BMTS**” or “**Subawardee**”).

### RECITALS

- A. Hailey is a municipal corporation duly organized and existing under the laws of the State of Idaho.
- B. BMTS is a non-profit corporation. BMTS acknowledges that it is not a foreign or international organization and that the work to be performed in this Agreement will not be performed in a foreign country.
- C. On July 15, 2010, the City of Hailey applied for a grant, entitled the Hailey Community Climate Challenge (“**Grant**”) from the Environmental Protection Agency (“**EPA**”). The EPA has awarded the City the Grant.
- D. The City of Hailey was assisted by BMTS in the preparation of the Grant.
- E. On February 14, 2011 the City of Hailey executed a Cooperative Agreement with EPA and committed to the tasks and projects described in the Grant application.
- F. Under the Grant award, BMTS shall implement a deconstruction/material salvage program within the City of Hailey.
- G. In consideration of the recitals set forth herein, the City and BMTS now desire to enter into the Agreement as set forth herein.

### AGREEMENT

NOW, THEREFORE, IN CONSIDERATION of the above recitals which are incorporated below, and of the mutual covenants and agreements herein contained the City and BMTS agree as follows:

1. Responsibility. The City retains primary responsibility for ensuring successful completion of the tasks and projects described in the Grant. BMTS will work in close coordination with city staff in implementing BMTS’ scope of work described in the Grant.
2. Scope of Work. BMTS agrees to carry out the scope of work as outlined in the attached **Exhibit “A.”** The scope of work shall not be modified, altered or amended in any manner without the prior consent of the City and EPA, in accordance with 40 CFR Parts 30.25 and 31.30, as applicable.

3. Compliance with Federal Requirements. Subawardee agrees to comply with all applicable rules, regulations and statutes, and the Administrative Conditions described in the Cooperative Agreement, attached hereto as **Exhibit "B."** The Administrative Conditions include but are not limited to the following:
- a) Subawardee shall not, directly or indirectly, provide funds from the Grant to the Association of Community Organizations for Reform Now (ACORN), or its subsidiaries.
  - b) Subawardee shall comply with EPA's program for Utilization of Minority and Women's Business Enterprises (MBE/WBE) in compliance with 40 CFR, Part 33. Subawardee will coordinate its procurement process with and receive consent from the city prior to any procurement action.
  - c) Subawardee shall not use any funds from the Grant to engage in lobbying of the Federal Government or in litigation against the United States, unless authorized under existing law.
  - d) EPA has the right to reproduce, publish, use and authorize others to use copyrighted works or other data developed under the Cooperative Agreement for federal purposes.
  - e) Subawardee has not been and shall not be during the term of this Agreement suspended or debarred from conducting business with the federal government. Subawardee further certifies that they will not engage any other vendor, subcontractor, etc., who has been or would be during the term of this Agreement suspended or debarred. Subawardee may access the Excluded Parties List System at [www.epls.gov](http://www.epls.gov) to determine suspended and debarred parties.
  - f) Subawardee shall ensure that there is compliance with the standards in Section 210(a) – (d) of OMB Circular A-133 and that the funds paid under this Agreement are not used to acquire commercial goods or services for Subawardee.
  - g) Subawardee shall ensure that expenses and costs to be paid by funds from the Grant are necessary, reasonable and allocable.
  - h) Subawardee shall monitor the performance of any person or entity which may receive funds from the Grant and ensure any such person or entity complies with all applicable regulations, statutes and Administrative Conditions.
  - i) Subawardee shall ensure that management fees and similar charges in excess of direct costs and approved indirect rates are not allowable and not paid from the funds from the Grant.

- j) Subawardee shall ensure that it and any of its employees comply with federal law prohibiting trafficking in persons, more particularly described in condition no. 17 of the Administrative Conditions.
  - k) Subawardee shall not use the EPA logo unless the City expressly consents and unless it is accompanied by a statement indicating that “[t]his publication was developed under Assistance Agreement No. AF-83494301-0 awarded by the U.S. Environmental Protection Agency. It has not been formally reviewed by EPA. The views expressed in this document are solely those of the City of Hailey, ID and EPA does not endorse any products or commercial services mentioned in this publication.”
  - l) Subawardee shall not pay for the travel of federal employees or for other costs associated with the Grant, unless federal agency is selected through the procurement process to carry out some of scope of work.
4. Payment Terms. BMTS shall be reimbursed for allowable costs from the funds from the Grant in an amount not to exceed \$30,000.00. Invoices may be submitted monthly, as appropriate, along with supporting documentation of actual costs. BMTS acknowledges that the City has notified BMTS that it may not receive any funds from the Grant unless BMTS has provided the City its Data Universal Numbering System (DUNS) number. BMTS’ DUNS number is 877569082.
  5. In-Kind Donations. BMTS shall provide a ten percent (10%) discount on up to \$10,000 of salvaged materials to be used in the Green Building Demonstration project.
  6. Reports. BMTS will submit quarterly progress reports to the City, which are due 15 days after the end of each federal fiscal quarter (federal fiscal quarters end the last day of March, June, September and December). Quarterly reports must include the following information:
    - a. A comparison of actual accomplishments with the anticipated outputs/outcomes specified in the EPA Cooperative Agreement;
    - b. The reasons why anticipated outputs/outcomes were not met; and
    - c. Other pertinent information, including when appropriate, analysis and information of cost overruns or high unit costs.
  7. Environmental Results – Outcomes, Outputs and Performance Measures. The City identified six outcomes with associated performance measures in the application for the Grant. In addition to the reporting requirements in paragraph 6, above, BMTS will be responsible for assisting with tracking specific results in order to report on the outcomes to EPA. The list below includes only the outcomes for which BMTS will assist in tracking.
    - a. Outcome 1: Annual reduction of 525.1 metric tons CO2 equivalent/year (all project components combined). Measure: Baseline data on

deconstruction/salvage and tracking decreases using equivalency calculation and monitoring tools such as Wastematch or similar program.

- b. Outcome 2: Develop skills and demand in the green jobs sector. Measure: Track number of subcontracts generated as result of increased deconstructed/salvage projects conducted.
  - c. Outputs are the tangible deliverables listed in the City's Grant application. Production of deliverables, on time, is the measure of success with outputs. BMTS shall adhere to, and report on progress against, the project schedule.
8. Project Meetings & Communication. BMTS will attend bi-weekly project coordination meetings and other meetings as necessary to carry out this Agreement effectively.
  9. City Staff and BMTS Staff and Roles.  
City:  
Tom Hellen, Project Manager  
Mariel Platt, Project Coordinator / Sustainability Coordinator  
Tracy Anderson, Grant Administrator / Project Support  
  
The Project Coordinator is the communication hub for the project, and will be the primary communication point for BMTS.  
  
BMTS:  
Bruce Tidwell, Director
  10. Recycled Paper. BMTS agrees to use recycled paper and double-sided printing for all reports which are prepared as a part of this Agreement.
  11. Inventions. Subawardee understands and acknowledges that any rights to inventions made under the Grant are subject to the provisions of 37 CFR, Part 401.
  12. Miscellaneous Provisions.
    - a) Time. Time is of the essence of this Agreement.

- b) Waiver. Failure of either party at any time to require performance of any provision of this Agreement shall not limit the party's right to enforce the provision, nor shall any waiver of any breach of any provision be a waiver of any succeeding breach of any provision or a waiver of the provision itself for any other provision.
- c) Assignment. Except as otherwise provided within this Agreement, neither party hereto may transfer or assign this Agreement without prior written consent of the other party.
- d) Attorney's Fees. In the event of any dispute with regard to the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover his/her reasonable costs and attorneys' fees incurred therein, whether or not a lawsuit is actually filed, and on any appeals, and in any bankruptcy proceeding.
- e) Entire Agreement. This Agreement contains the entire understanding between and among the parties and supersedes any prior understandings and agreements among them respecting the subject matter of this Agreement.
- f) Further Action. The parties hereto shall execute and deliver all documents, provide all information and take or forbear from all such action as may be necessary or appropriate to achieve the purposes of this Agreement.
- g) Counterparts. This Agreement may be executed in several counterparts and all so executed shall constitute one Agreement, binding on all the parties hereto even though all the parties are not signatories to the original or the same counterpart.
- h) Parties in Interest. Nothing herein shall be construed to be to the benefit of any third party, nor is it intended that any provision shall be for the benefit of any third party.
- i) Remedies. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude nor waive its rights to use any or all other remedies. Any rights provided to the parties under this Agreement are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.
- j) Severability. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.
- k) Authority. Each signatory agrees that he or she has full authority and consent to sign this Agreement.

- l) Amendment. This Agreement may be revised, amended, or canceled in whole or in part, only by means of a written instrument executed by both parties hereto.
  
- m) Interpretation. This Agreement shall be liberally construed in accordance with the general purposes of this Agreement and interpreted and enforced under the laws of the State of Idaho. No presumption shall exist in favor of or against any party to this Agreement as the result of drafting and preparing this Agreement. The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of the Agreement or any provisions of the Agreement.
  
- n) Partnership. The Parties do not intend to create through this Agreement any partnership, corporation, employer/employee relationship, joint venture or other business entity or relationship other than that of independent contractor.

IN WITNESS WHEREOF, the parties, having been duly authorized, have hereunto caused this Agreement to be executed, on the day and year first above written, the same being done after public hearing, notice and statutory requirements having been fulfilled.

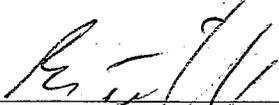
CITY OF HAILEY:

Attest:

By: \_\_\_\_\_  
Richard L. Davis, Mayor

\_\_\_\_\_  
Mary Cone, City Clerk

BUILDING MATERIAL THRIFT STORE

  
\_\_\_\_\_  
By: Bruce Tidwell, Director

## EXHIBIT A

### Hailey Community Climate Challenge Scope of Work

#### BUILDING MATERIAL THRIFT STORE DECONSTRUCTION/MATERIAL SALVAGE

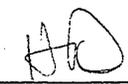
The deconstruction/material salvage scope of work includes the following:

1. Work with city staff to procure a forklift, cutting torches and scaffolding. Procurement will be conducted by the City of Hailey.
2. Work with city staff and the Environmental Resource Center to conduct a series of six deconstruction/salvage workshops targeted towards developers, realtors, contractors, the general public and the Wood River High School Construction Academy. Workshops will be integrated with the workshops conducted for the Green Building Demonstration part of the project. Develop workshop materials suitable for dissemination.
3. Work with city staff and the Environmental Resource Center to develop a new deconstruction/salvage brochure and an enhanced deconstruction/salvage website.

**AGENDA ITEM SUMMARY**

DATE: February 28, 2011

DEPARTMENT: Finance

DEPT. HEAD SIGNATURE: 

**SUBJECT:** Contract with Diamond Sun Productions (DSP).

**AUTHORITY:**  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

The contract with DSP includes, but is not limited to, the US EPA's regulations as well as the scope of work for production of a film, documenting the Hailey Community Climate Challenge (a grant award recently accepted by the City). The contract is necessary to ensure that all requirements and deliverables of the Challenge are met.

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:** Casele # \_\_\_\_\_  
Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_  
Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_  
Staff Contact: \_\_\_\_\_ Phone # \_\_\_\_\_  
Comments: \_\_\_\_\_

**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)**

- |  |  |   |
|--|--|---|
| <input checked="" type="checkbox"/> City Administrator | <input type="checkbox"/> Library             | <input type="checkbox"/> Safety Committee |
| <input checked="" type="checkbox"/> City Attorney      | <input type="checkbox"/> Mayor               | <input type="checkbox"/> Streets          |
| <input type="checkbox"/> City Clerk                    | <input type="checkbox"/> Planning            | <input type="checkbox"/> Treasurer        |
| <input type="checkbox"/> Building                      | <input type="checkbox"/> Police              | _____                                     |
| <input type="checkbox"/> Engineer                      | <input type="checkbox"/> Public Works, Parks | _____                                     |
| <input type="checkbox"/> Fire Dept.                    | <input type="checkbox"/> P & Z Commission    | _____                                     |

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Motion to authorize the Mayor to sign the contract with DSP.

**ADMINISTRATIVE COMMENTS/APPROVAL:**

City Administrator \_\_\_\_\_ Dept. Head Attend Meeting (circle one) Yes No

**ACTION OF THE CITY COUNCIL:**

Date \_\_\_\_\_

City Clerk \_\_\_\_\_

**FOLLOW-UP:**

\*Ord./Res./Agmt./Order Originals: Record  
Copies (all info.): \_\_\_\_\_  
Instrument # \_\_\_\_\_

\*Additional/Exceptional Originals to: \_\_\_\_\_  
Copies (AIS only)

## Hailey Community Climate Challenge Diamond Sun Productions Subaward Agreement

This Agreement (“**Agreement**”) is entered into this \_\_\_\_ day of February, 2011, by and between the City of Hailey, a municipal corporation (“**City**”) and Diamond Sun Productions, a sole proprietorship (“**Diamond Sun**” or “**Subawardee**”).

### RECITALS

- A. Hailey is a municipal corporation duly organized and existing under the laws of the State of Idaho.
- B. Diamond Sun is a sole proprietorship. Diamond Sun acknowledges that it is not a foreign or international organization and that the work to be performed in this Agreement will not be performed in a foreign country.
- C. On July 15, 2010, the City of Hailey applied for a grant, entitled the Hailey Community Climate Challenge (“**Grant**”) from the Environmental Protection Agency (“**EPA**”). The EPA has awarded the City the Grant.
- D. The City of Hailey was assisted by Diamond Sun in the preparation of the Grant.
- E. On February 14, 2011 the City of Hailey executed a Cooperative Agreement with EPA and committed to the tasks and projects described in the Grant application.
- F. Under the Grant award, Diamond Sun shall produce a documentary film concerning all aspects of the grant project.
- G. In consideration of the recitals set forth herein, the City and Diamond Sun now desire to enter into the Agreement as set forth herein.

### AGREEMENT

NOW, THEREFORE, IN CONSIDERATION of the above recitals which are incorporated below, and of the mutual covenants and agreements herein contained the City and Diamond Sun agree as follows:

1. Responsibility. The City retains primary responsibility for ensuring successful completion of the tasks and projects described in the Grant. Diamond Sun will work in close coordination with city staff in implementing Diamond Sun’s scope of work described in the Grant.
2. Scope of Work. Diamond Sun agrees to produce a documentary film that includes six (6) topical segments, an introduction and an ending. The finished

documentary film will be a one hour television program (52 minutes). In addition, six (6) self-contained web segments shall be made substantially from the one hour television program. Diamond Sun shall provide the documentary film and web segments on high definition field files and edited master files on a portable hard drive. Diamond Sun shall commence work under this Agreement on or before the March 7, 2011, and shall complete the work under this Agreement on or before August 1, 2013. The City shall be responsible for any distribution and packaging of the produced program and web segments by DVD or similar form of media and by internet. The scope of work shall not be modified, altered or amended in any manner without the prior consent of the City and EPA, in accordance with 40 CFR Parts 30.25 and 31.30, as applicable.

3. Compliance with Federal Requirements. Subawardee agrees to comply with all applicable rules, regulations and statutes, and the Administrative Conditions described in the Cooperative Agreement, attached hereto as **Exhibit "A."** The Administrative Conditions include but are not limited to the following:
  - a) Subawardee shall not, directly or indirectly, provide funds from the Grant to the Association of Community Organizations for Reform Now (ACORN), or its subsidiaries.
  - b) Subawardee shall comply with EPA's program for Utilization of Minority and Women's Business Enterprises (MBE/WBE) in compliance with 40 CFR, Part 33. Subawardee will coordinate its procurement process with and receive consent from the city prior to any procurement action.
  - c) Subawardee shall not use any funds from the Grant to engage in lobbying of the Federal Government or in litigation against the United States, unless authorized under existing law.
  - d) EPA has the right to reproduce, publish, use and authorize others to use copyrighted works or other data developed under the Cooperative Agreement for federal purposes. The Subawardee agrees that the television program and the web segments produced under this Agreement shall be solely owned by the City.
  - e) Subawardee has not been and shall not be during the term of this Agreement suspended or debarred from conducting business with the federal government. Subawardee further certifies that they will not engage any other vendor, subcontractor, etc., who has been or would be during the term of this Agreement suspended or debarred. Subawardee may access the Excluded Parties List System at [www.epls.gov](http://www.epls.gov) to determine suspended and debarred parties.
  - f) Subawardee shall ensure that there is compliance with the standards in Section 210(a) – (d) of OMB Circular A-133 and that the funds paid under this

Agreement are not used to acquire commercial goods or services for Subawardee.

- g) Subawardee shall ensure that expenses and costs to be paid by funds from the Grant are necessary, reasonable and allocable.
  - h) Subawardee shall monitor the performance of any person or entity which may receive funds from the Grant and ensure any such person or entity complies with all applicable regulations, statutes and Administrative Conditions.
  - i) Subawardee shall ensure that management fees and similar charges in excess of direct costs and approved indirect rates are not allowable and not paid from the funds from the Grant.
  - j) Subawardee shall ensure that it and any of its employees comply with federal law prohibiting trafficking in persons, more particularly described in condition no. 17 of the Administrative Conditions.
  - k) Subawardee shall not use the EPA logo unless the City expressly consents and unless it is accompanied by a statement indicating that "[t]his publication was developed under Assistance Agreement No. AF-83494301-0 awarded by the U.S. Environmental Protection Agency. It has not been formally reviewed by EPA. The views expressed in this document are solely those of the City of Hailey, ID and EPA does not endorse any products or commercial services mentioned in this publication."
  - l) Subawardee shall not pay for the travel of federal employees or for other costs associated with the Grant, unless federal agency is selected through the procurement process to carry out some of scope of work.
4. Payment Terms. Diamond Sun shall be reimbursed for allowable costs from the funds from the Grant in an amount not to exceed \$47,500.00. Monthly invoices may be submitted based on the portion of work performed under this Agreement, along with supporting documentation of actual costs and any in-kind donation.
5. In-Kind Donations. Diamond Sun shall provide \$5,850.00 of in-kind labor and/or materials.
6. Reports. Diamond Sun will submit quarterly progress reports to the City, which are due 15 days after the end of each federal fiscal quarter (federal fiscal quarters end the last day of March, June, September and December). Quarterly reports must include the following information:
- a. A comparison of actual accomplishments with the anticipated outputs/outcomes specified in the EPA Cooperative Agreement;
  - b. The reasons why anticipated outputs/outcomes were not met; and

- c. Other pertinent information, including when appropriate, analysis and information of cost overruns or high unit costs.

7. Environmental Results – Outcomes, Outputs and Performance Measures.

In addition to the reporting requirements in paragraph 6, above, Diamond Sun will be responsible for ensuring that specific outputs are met. Outputs are the tangible deliverables listed in the City's Grant application. Production of deliverables, on time, is the measure of success with outputs. Diamond Sun shall adhere to, and report on progress against, the project schedule.

8. Project Meetings & Communication. When necessary, Diamond Sun will attend bi-weekly project coordination meetings, and other meetings as necessary to carry out this Agreement effectively.

9. City Staff and Diamond Sun Staff and Roles.

City:

Tom Hellen, Project Manager

Mariel Platt, Project Coordinator / Sustainability Coordinator

Tracy Anderson, Grant Administrator / Project Support

The Project Coordinator is the communication hub for the project, and will be the primary communication point for Diamond Sun.

Diamond Sun:

David Butterfield

10. Recycled Paper. Diamond Sun agrees to use recycled paper and double-sided printing for all reports which are prepared as a part of this Agreement.

11. Inventions. Subawardee understands and acknowledges that any rights to inventions made under the Grant are subject to the provisions of 37 CFR, Part 401.

12. Miscellaneous Provisions.

- a) Time. Time is of the essence of this Agreement.
- b) Waiver. Failure of either party at any time to require performance of any provision of this Agreement shall not limit the party's right to enforce the provision, nor shall any waiver of any breach of any provision be a waiver of any succeeding breach of any provision or a waiver of the provision itself for any other provision.
- c) Assignment. Except as otherwise provided within this Agreement, neither party hereto may transfer or assign this Agreement without prior written consent of the other party.

- d) Attorney's Fees. In the event of any dispute with regard to the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover his/her reasonable costs and attorneys' fees incurred therein, whether or not a lawsuit is actually filed, and on any appeals, and in any bankruptcy proceeding.
- e) Entire Agreement. This Agreement contains the entire understanding between and among the parties and supersedes any prior understandings and agreements among them respecting the subject matter of this Agreement.
- f) Further Action. The parties hereto shall execute and deliver all documents, provide all information and take or forbear from all such action as may be necessary or appropriate to achieve the purposes of this Agreement.
- g) Counterparts. This Agreement may be executed in several counterparts and all so executed shall constitute one Agreement, binding on all the parties hereto even though all the parties are not signatories to the original or the same counterpart.
- h) Parties in Interest. Nothing herein shall be construed to be to the benefit of any third party, nor is it intended that any provision shall be for the benefit of any third party.
- i) Remedies. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude nor waive its rights to use any or all other remedies. Any rights provided to the parties under this Agreement are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.
- j) Severability. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.
- k) Authority. Each signatory agrees that he or she has full authority and consent to sign this Agreement.
- l) Amendment. This Agreement may be revised, amended, or canceled in whole or in part, only by means of a written instrument executed by both parties hereto.
- m) Interpretation. This Agreement shall be liberally construed in accordance with the general purposes of this Agreement and interpreted and enforced under the laws of the State of Idaho. No presumption shall exist in favor of or against any party to this Agreement as the result of drafting and preparing

this Agreement. The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of the Agreement or any provisions of the Agreement.

- n) Partnership. The Parties do not intend to create through this Agreement any partnership, corporation, employer/employee relationship, joint venture or other business entity or relationship other than that of independent contractor.

IN WITNESS WHEREOF, the parties, having been duly authorized, have hereunto caused this Agreement to be executed, on the day and year first above written, the same being done after public hearing, notice and statutory requirements having been fulfilled.

CITY OF HAILEY:

Attest:

By: \_\_\_\_\_  
Richard L. Davis, Mayor

\_\_\_\_\_  
Mary Cone, City Clerk

DIAMOND SUN PRODUCTION

  
By: David Butterfield, Owner

# EXHIBIT A

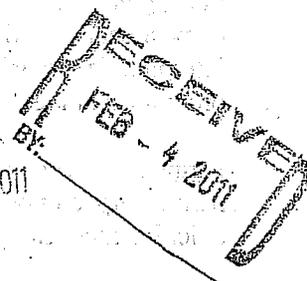


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
ADMINISTRATION  
AND RESOURCE  
MANAGEMENT

Re: Notice of EPA Assistance Award

JAN 31 2011



Dear Authorized Representative:

Enclosed is your Notice of Award from the U.S. Environmental Protection Agency. Please carefully review the assistance agreement and the terms and conditions.

Please make a copy for your records and provide the appropriate copies within your organization. You must affirm your intent to utilize the assistance by signing the Affirmation of Award and returning the full document to EPA within three weeks to the following address:

U.S. Environmental Protection Agency  
Office of Grants and Debarment  
1200 Pennsylvania Avenue, NW (3903R)  
Room ~~5123~~ 51234  
Washington, D.C. 20460

Please note that the above address is EPA's mailing address for postal delivery. If you would like to send the Notice of Award via courier, the following address should be used:

U.S. Environmental Protection Agency  
1300 Pennsylvania Avenue, N.W.  
Fifth Floor, Room ~~5123~~ 51234  
Washington, D.C. 20004  
(202) 564-5315

**If the Notice of Award includes any terms and conditions requiring signed certifications or assurances, you must return them with the signed Affirmation.** Payment will be made available after the Affirmation of Award and any required assurances are received. Failure to affirm and return the Notice of Award within 3 weeks of receipt may result in withdraw of this award. If you have any questions, please contact your grants specialist identified on the award document. Please reference the EPA assistance number on all future correspondence regarding this assistance agreement.

Enclosures

Internet Address (URL) <http://www.epa.gov>

NOT OFFICIAL FOR COPY  
 REQUIRE AWARD SIGNATURE

NOT OFFICIAL FOR COPY  
 REQUIRE AWARD SIGNATURE

	<b>U.S. ENVIRONMENTAL PROTECTION AGENCY</b>  <b>Cooperative Agreement</b>	ASSISTANCE ID NO.			
		PRG	DOC ID	AMEND#	DATE OF AWARD
		AF -	83494301	- 0	01/24/2011
		TYPE OF ACTION			MAILING DATE
RECIPIENT TYPE:		Send Payment Request to:			
Municipal		Las Vegas Finance Center			
RECIPIENT:		PAYEE:			
City of Hailey 115 South Main Street, STE H Hailey, ID 83333-8408 EIN: 82-6000201		City Treasurer City of Hailey 115 South Main Street, STE H Hailey, ID 83333-8408			
PROJECT MANAGER		EPA PROJECT OFFICER		EPA GRANT SPECIALIST	
Tom Heilen City of Hailey 115 South Main Street, STE H Hailey, ID 83333-8408 E-Mail: tom.hellen@haileycityhall.org Phone: 208-788-4221 ex 14		Andrea Denny 1200 Pennsylvania Ave, NW, 6202J Washington, DC 20460 E-Mail: denny.andrea@epa.gov Phone: 202-343-9268		Brian Hublar 1200 Pennsylvania Ave NW Washington DC 20460, 3903R E-Mail: Hublar.Brian@epa.gov Phone: 202-564-0940	
<b>PROJECT TITLE AND DESCRIPTION.</b> Hailey, ID Community Climate Challenge The Hailey Community Climate Challenge will demonstrate how small communities can address climate change through a variety of greenhouse gas reduction measures targeting municipal operations as well as community sources. The challenge consists of an energy retrofit program, green building demonstration, solid waste management, a bike share program, and staffing and outreach to support all functions.					
BUDGET PERIOD	PROJECT PERIOD	TOTAL BUDGET PERIOD COST	TOTAL PROJECT PERIOD COST		
02/01/2011 - 01/31/2014	02/01/2011 - 01/31/2014	\$709,963.00	\$709,963.00		
<b>NOTICE OF AWARD</b>  Based on your application dated 07/15/2010, including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA), hereby awards \$472,429. EPA agrees to cost-share 67.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$472,429. Such award may be terminated by EPA without further cause if the recipient fails to provide timely affirmation of the award by signing under the Affirmation of Award section and returning all pages of this agreement to the Grants Management Office listed below within 21 days after receipt, or any extension of time, as may be granted by EPA. This agreement is subject to applicable EPA statutory provisions. The applicable regulatory provisions are 40 CFR Chapter 1, Subchapter B, and all terms and conditions of this agreement and any attachments.					
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)			AWARD APPROVAL OFFICE		
ORGANIZATION / ADDRESS			ORGANIZATION / ADDRESS		
Grants and Interagency Agreement Management Division 1200 Pennsylvania Ave, NW Mail code 3903R Washington, DC 20460			Environmental Protection Agency Office of Air and Radiation 1200 Pennsylvania Ave, NW Washington, DC 20460		
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY					
SIGNATURE OF AWARD OFFICIAL		TYPED NAME AND TITLE		DATE	
Digital signature applied by EPA Award Official		Denise A. Polk, Chief Grants Management Branch B		01/24/2011	
<b>AFFIRMATION OF AWARD</b>  BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION					
SIGNATURE		TYPED NAME AND TITLE		DATE	

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 472,429	\$ 472,429
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$	\$ 0
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$ 237,534	\$ 237,534
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 709,963	\$ 709,963

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.041 - Climate Showcase Communities Grant Program	Public Law 111-88 Department of Interior Environment and Related Agencies Appropriations Act 2010	40 CFR PART 31

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
	1158EE1127	11	E1C	58E11	105A29E	4183			472,429
									472,429

## Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$248,819
2. Fringe Benefits	\$74,205
3. Travel	\$10,670
4. Equipment	\$0
5. Supplies	\$55,970
6. Contractual	\$60,600
7. Construction	\$0
8. Other	\$259,699
9. Total Direct Charges	\$709,963
10. Indirect Costs: <u>0.00</u> % Base	\$0
11. Total (Share: Recipient <u>33.00</u> % Federal <u>67.00</u> %.)	\$709,963
12. Total Approved Assistance Amount	\$472,429
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$472,429
15. Total EPA Amount Awarded To Date	\$472,429

**Administrative Conditions**

1. In accordance with Section 2(d) of the Prompt Payment Act (P.L. 97-177), Federal funds may not be used by the recipient for the payment of interest penalties to contractors when bills are paid late nor may interest penalties be used to satisfy cost sharing requirements. Obligations to pay such interest penalties will not be obligations of the United States.

2. Congress has prohibited EPA from using its FY 2011 appropriations to provide funds to the Association of Community Organizations for Reform Now (ACORN) or any of its subsidiaries. None of the funds provided under this agreement may be used for subawards/subgrants or contracts to ACORN or its subsidiaries. Recipients should direct any questions about this prohibition to their EPA Grants Management Office.

**3. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

**GENERAL COMPLIANCE, 40 CFR, Part 33**

The recipient agrees to comply with the requirements of EPA's Program for Utilization of Minority and Women's Business Enterprises (MBE/WBE) in procurement under assistance agreements, contained in 40 CFR, Part 33.

**FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D**

A recipient must negotiate with the appropriate EPA award official, or his/her designee, Fair share objectives for MBE and WBE participation in procurement under the financial assistance agreement.

**Current Fair Share Objective/Goal**

The dollar amount of this assistance agreement is \$250,000, or more; or the total dollar amount of all of the recipient's non-TAG assistance agreements from EPA in the current fiscal year is \$250,000, or more. The Idaho Department of Environmental Quality has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

	MBE	WBE
Construction	2.40%	1.60%
Supplies	0.70%	1.40%
Services	1.20%	1.80%
Equipment	0.10%	0.30%

**Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404**

If the recipient has not yet negotiated its MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

#### SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure Disadvantaged Business Enterprises (DBEs) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State, and local government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (e) Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce in finding DBEs.
- (f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

#### MBE/WBE REPORTING, 40 CFR, Part 33, Sections 33.502 and 33.503

The recipient agrees to complete and submit EPA Form 5700-52A, "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" beginning with the Federal fiscal year reporting period the recipient receives the award, and continuing until the project is completed. Only procurements with certified MBE/WBEs are counted toward a recipient's MBE/WBE accomplishments. The reports must be submitted semiannually for the periods ending March 31st and September 30th for:

Recipients of financial assistance agreements that capitalize revolving loan programs (CWSRF, DWSRF, Brownfields); and

All other recipients not identified as annual reporters (40 CFR Part 30 and 40 CFR Part 35, Subpart A and Subpart B recipients are annual reporters).

The reports are due within 30 days of the end of the semiannual reporting periods (April 30th and October 30th). Reports should be sent to Sara Ayres, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW Mail Code 3903R, Room 51225, Washington, DC 20460, 202-564-5391. Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. Your grant cannot be officially closed without all MBE/WBE reports.

EPA Form 5700-52A may be obtained from the EPA Office of Small Business Program's Home Page on the Internet at [www.epa.gov/osbp](http://www.epa.gov/osbp).

#### CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

#### BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.5

4. Pursuant to 40 CFR 31.41(b) and 31.50(b), EPA recipients shall submit a final Federal Financial Report (SF-425) to EPA no later than 90 calendar days after the end of the project period. The form is available on the internet at <http://www.epa.gov/ocfo/finservices/forms.htm>. All FFRs must be submitted to the Las Vegas Finance Center: US EPA, LVFC, PO Box 98515, Las Vegas, NV 89193, or by Fax to: 702-798-2423.

The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement.

EPA may take enforcement actions in accordance with 40 CFR 31.43 if the recipient does not comply with this term and condition.

5. Payment to consultants. EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. As of January 1, 2011, the limit is \$596.00 per day and \$74.50 per hour. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices).

Subagreements with firms for services which are awarded using the procurement requirements in 40 CFR 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 31.36(j) or 30.27(b).

#### 6. HOTEL-MOTEL FIRE SAFETY

Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a, the recipient agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

7. The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The recipient shall abide by its respective OMB Circular (A-21, A-87, or A-122), which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities.

#### 8. I. Reporting Subawards and Executive Compensation.

##### A. Reporting of first-tier subawards.

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e of this award term).

2. Where and when to report. You must report each obligating action described in paragraph A.1. of this award term to [www.frs.gov](http://www.frs.gov).

For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. What to report. You must report the information about each obligating action that the submission instructions posted at [www.fsrc.gov](http://www.fsrc.gov) specify.

**B. Reporting Total Compensation of Recipient Executives.**

1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if --

- i. the total Federal funding authorized to date under this award is \$25,000 or more;
- ii. in the preceding fiscal year, you received--

(a) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(b) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:

- i. As part of your registration profile at [www.ccr.gov](http://www.ccr.gov).
- ii. By the end of the month following the month in which this award is made, and annually thereafter.

**C. Reporting of Total Compensation of Subrecipient Executives.**

1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if --

- i. in the subrecipient's preceding fiscal year, the subrecipient received--

(a) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(b) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

- i. To the recipient.
- ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

**D. Exemptions**

1. If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- i. subawards, and
- ii. the total compensation of the five most highly compensated executives of any subrecipient.

E. Definitions. For purposes of this award term:

1. Entity means all of the following, as defined in 2 CFR part 25:

- i. A Governmental organization, which is a State, local government, or Indian tribe;
- ii. A foreign public entity;
- iii. A domestic or foreign nonprofit organization;
- iv. A domestic or foreign for-profit organization;
- v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2. Executive means officers, managing partners, or any other employees in management positions.

3. Subaward:

i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. --.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. Subrecipient means an entity that:

- i. Receives a subaward from you (the recipient) under this award; and
- ii. Is accountable to you for the use of the Federal funds provided by the subaward.

5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

i. Salary and bonus.

ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings on deferred compensation which is not tax-qualified.

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

9. Central Contractor Registration and Universal Identifier Requirements.

A. Requirement for Central Contractor Registration (CCR). Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

B. Requirement for Data Universal Numbering System (DUNS) numbers. If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

C. Definitions. For purposes of this award term:

1. Central Contractor Registration (CCR) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).

2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:

- a. A Governmental organization, which is a State, local government, or Indian tribe;
- b. A foreign public entity;
- c. A domestic or foreign nonprofit organization;
- d. A domestic or foreign for-profit organization; and
- e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal

entity.

4. Subaward:

a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. --210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").

c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. Subrecipient means an entity that:

- a. Receives a subaward from you under this award; and
- b. Is accountable to you for the use of the Federal funds provided by the subaward.

10. In accordance with 40 CFR 31.34 for State, local and Indian Tribal governments or 40 CFR 30.36 for other recipients, EPA has the right to reproduce, publish, use, and authorize others to use copyrighted works or other data developed under this assistance agreement for Federal purposes.

Examples of a Federal purpose include but are not limited to: (1) Use by EPA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for the Government; (3) Publication in EPA documents provided the document does not disclose trade secrets (e.g. software codes) and the work is properly attributed to the recipient through citation or otherwise; (4) Reproduction of documents for inclusion in Federal depositories; (5) Use by State, tribal and local governments that carry out delegated Federal environmental programs as "co-regulators" or act as official partners with EPA to carry out a national environmental program within their jurisdiction and; (6) Limited use by other grantees to carry out Federal grants provided the use is consistent with the terms of EPA's authorization to the other grantee to use the copyrighted works or other data.

Under Item 6, the grantee acknowledges that EPA may authorize another grantee(s) to use the

copyrighted works or other data developed under this grant as a result of:

- a. the selection of another grantee by EPA to perform a project that will involve the use of the copyrighted works or other data or;
- b. termination or expiration of this agreement.

In addition, EPA may authorize another grantee to use copyrighted works or other data developed with Agency funds provided under this grant to perform another grant when such use promotes efficient and effective use of Federal grant funds.

11. In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007), the recipient agrees to use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

Any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth in Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

12. Recipients shall fully comply with Subpart C of 2 CFR Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business With Other Persons," as implemented and supplemented by 2 CFR Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information required under 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipients may access the Excluded Parties List System at <http://www.epls.gov>. This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

13. The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 40 CFR 36.200 - 36.230. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title 40 CFR 36.300.

The consequences for violating this condition are detailed under Title 40 CFR 36.510. Recipients can access the Code of Federal Regulations (CFR) Title 40 Part 36 at [http://www.access.gpo.gov/nara/cfr/waisidx\\_06/40cfr36\\_06.html](http://www.access.gpo.gov/nara/cfr/waisidx_06/40cfr36_06.html).

14. a. The recipient agrees to:

- (1) Establish all subaward agreements in writing;
- (2) Maintain primary responsibility for ensuring successful completion of the EPA-approved project (this responsibility cannot be delegated or transferred to a subrecipient);
- (3) Ensure that any subawards comply with the standards in Section 210(a)-(d) of OMB Circular A-133 and are not used to acquire commercial goods or services for the recipient;
- (4) Ensure that any subawards are awarded to eligible subrecipients and that proposed subaward costs are necessary, reasonable, and allocable;
- (5) Ensure that any subawards to 501(c)(4) organizations do not involve lobbying activities;
- (6) Monitor the performance of their recipients and ensure that they comply with all applicable regulations, statutes, and terms and conditions which flow down in the subaward;
- (7) Obtain EPA's consent before making a subaward to a foreign or international organization, or a subaward to be performed in a foreign country; and
- (8) Obtain approval from EPA for any new subaward work that is not outlined in the approved work plan in accordance with 40 CFR Parts 30.25 and 31.30, as applicable.

b. Any questions about subrecipient eligibility or other issues pertaining to subawards should be addressed to the recipient's EPA Project Officer. Additional information regarding subawards may be found at <http://www.epa.gov/ogd/guide/subaward-policy-part-2.pdf>. Guidance for distinguishing between vendor and subrecipient relationships and ensuring compliance with Section 210(a)-(d) of OMB Circular A-133 can be found at <http://www.epa.gov/ogd/guide/subawards-appendix-b.pdf> and <http://www.whitehouse.gov/omb/circulars/a133/a133.html>.

c. The recipient is responsible for selecting its subrecipients and, if applicable, for conducting subaward competitions.

15. Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

16. EPA's financial obligations to the recipient are limited by the amount of federal funding awarded to date as shown on line 15 in its EPA approved budget. If the recipient incurs costs in anticipation of receiving additional funds from EPA, it does so at its own risk.

17. 1. Trafficking in Persons.

a. Provisions applicable to a recipient that is a private entity.

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not-

i. Engage in sever forms of trafficking in persons during the period of time that the award is in effect;

ii. Procure a commercial sex act during the period of time that the award is in effect; or

iii. Use forced labor in the performance of the award or subawards under the award.

2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity-

i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or

ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either-

A. Associated with performance under this award; or

B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our Agency at 2 CFR 1532.

b. Provision applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity-

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or  
2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either-

i. Associated with performance under this award; or  
ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR 1532.

c. Provisions applicable to any recipient.

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104 (g)), and

ii. Is in addition to all other remedies for noncompliance that are available to us under this award.

3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions. For the purposes of this award term:

1. "Employee" means either:

i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3. "Private entity":

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25

ii. Includes:

A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than the one included in the definition of Indian tribe at 2 CFR 175.25 (b).

B. A for-profit organization.

4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

18. In accordance with OMB Circular A-133, which implements the Single Audit Act, the recipient hereby agrees to obtain a single audit from an independent auditor, if it expends \$500,000 or more in total Federal funds in any fiscal year. Within nine months after the end of a recipient's fiscal year or 30 days after receiving the report from the auditor, the recipient shall submit the SF-SAC and a Single Audit Report Package. The recipient MUST submit the SF-SAC and a Single Audit Report Package, using the Federal Audit Clearinghouse's Internet Data Entry System. For complete information on how to accomplish the single audit submissions, you will need to visit the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>

19. In accordance with Homeland Security Presidential Directive-12 (HSPD-12), Policy for a Common Identification Standard of Federal Employees and Contractors, and Executive Order 10450, Security Requirements for Government Employment, the recipient agrees to follow instructions from the EPA Project Officer to ensure compliance with the EPA Personnel Access and Security System (EPASS). Any

recipient employees, contractors, or other individuals that meet one of the following two criteria must comply in order to perform work under this assistance agreement:

1. Those personnel on site at an EPA facility at least 24 hours per week for more than six months; or
2. Those personnel needing access to EPA's application or general support systems classified as "HIGH" under FIPS 199 and/or to the information contained within these systems.

The recipient agrees not to use funds for any such personnel unless a temporary or permanent EPASS badge has been issued to that person.

20. Any use of the EPA logo should be accompanied with a statement indicating that "This publication was developed under Assistance Agreement No. AF-83494301-0 awarded by the U.S. Environmental Protection Agency. It has not been formally reviewed by EPA. The views expressed in this document are solely those of the City of Hailey, ID and EPA does not endorse any products or commercial services mentioned in this publication."

21. By accepting this agreement for the electronic method of payment through the Automated Clearing House (ACH) network using the EPA-ACH payment system, the recipient agrees to:

- (a) Request funds based on the recipient's immediate disbursement requirements by presenting an EPA-ACH Payment Request to your EPA Servicing Finance Office (see EPA-ACH Payment System Recipient's Manual for additional information).
- (b) Provide timely reporting of cash disbursements and balances in accordance with the EPA-ACH Payment System Recipient's Manual; and
- (c) Impose the same standards of timing and reporting on subrecipients, if any.

Failure on the part of the recipient to comply with the above conditions may cause the recipient to be placed on the reimbursement payment method. }

22. Rights to inventions made under this assistance agreement are subject to the provisions of Title 37 Code of Federal Regulations (CFR), Part 401, 'Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements', as revised through the date of this assistance agreement.

23. The recipient understands that none of the funds for this project (including funds contributed by the recipient as cost sharing) may be used to pay for the travel of Federal employees or for other costs associated with Federal participation in this project. Except however, if a Federal agency is selected through the recipient's procurement process to carry out some of the work as a contractor to the recipient, funds may be used to allow necessary Federal travel and other costs associated with Federal participation in this project.

24. In accordance with 40 CFR 30.24(b)(1), program income will be added to funds committed to the project by EPA and used to further eligible project or program objectives.

### Programmatic Conditions

#### 1. Quarterly Report:

In accordance with EPA regulations (40 C.F.R. 31.40 for State, local and tribal governments; 40 C.F.R. 30.51 for other recipients), the recipient agrees to submit quarterly progress reports to the EPA Project

Officer within thirty days after each reporting period. These reports shall cover work status, work progress, difficulties encountered, preliminary data results and a statement of activity anticipated during the subsequent reporting period, including a description of equipment, techniques, and materials to be used or evaluated. A discussion of expenditures along with a comparison of the percentage of the project completed to the project schedule and an explanation of significant discrepancies shall be included in the report. The report shall also include any changes of key personnel concerned with the project.

In addition, the report shall include brief information on each of the following areas: 1) a comparison of actual accomplishments with the anticipated outputs/outcomes specified in the assistance agreement work plan; 2) reasons why anticipated outputs/outcomes were not met; and 3) other pertinent information, including, when appropriate, analysis and explanation of cost overruns or high unit costs. The recipient agrees that it will notify EPA of problems, delays, or adverse conditions which materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan. The recipient's quarterly reports will include estimates of greenhouse gas reductions achieved by the project including the underlying data and assumptions used to calculate those reductions.

### **2. Final Technical Report:**

In accordance with EPA regulations (40 C.F.R. 31.40 for State, local and tribal governments; 40 C.F.R. 30.51 for other recipients), the recipient agrees to submit to the EPA Project Officer within 90 days after the expiration or termination of the approved project period a final report and at least one reproducible copy suitable for printing. The final report shall document project activities over the entire project period and shall include brief information on each of the following areas: 1) a comparison of actual accomplishments with the anticipated outputs/outcomes specified in the assistance agreement work plan; 2) reasons why anticipated outputs/outcomes were not met; and 3) other pertinent information, including, when appropriate, analysis and explanation of cost overruns or high unit costs. The recipient agrees that it will notify EPA of problems, delays, or adverse conditions which materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan. The recipient's final technical report will include estimates of greenhouse gas reductions achieved by the project including the underlying data and assumptions used to calculate those reductions.

### **3. Workshops Attendance:**

Recipient must send at least one employee of Recipient's organization to attend and participate in EPA's Annual Climate Showcase Communities Training Workshop every year for each year of this grant agreement's active project period. To the extent such costs are allowable, grant funds may be used for travel and related costs for up to three people to attend the annual training workshops. Grant funds may not be used to send more than three people to the annual training workshop each year. Recipients must seek prior approval for training training expenses, including travel and lodging costs.

4. No EPA grant funding will be used to install renewable energy systems to existing buildings that are eligible for or listed on the National Register of Historic Places in the absence of appropriate review under section 106 of the National Historic Preservation Act (NHPA).

5. EPA may terminate the assistance agreement for failure of the recipient to make sufficient progress so as to reasonably ensure completion of the project within the project period, including any extensions. EPA will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period, and/or the availability of funds necessary to complete the project.

### **6. Substantial Involvement**

§ The EPA Project Officer (PO) and the recipient Project Manager (PM) will be in frequent communication throughout all phases of the Cooperative Agreement. At a minimum, this communication will occur through monthly telephone calls or e-mails, and at annual meetings.

- § The EPA PO will monitor the progress of the work throughout the project to ensure overall project direction.
- § The EPA PO will review all drafts of written materials which reference EPA program information going to the public before final printing and distribution.
- § The recipient will provide EPA with sufficient time to review and comment on all materials developed for this Cooperative Agreement. EPA reviews will focus on technical accuracy, compliance with applicable statutory and regulatory requirements.
- § The recipient PM agrees to consult with the EPA PO on all major phases of the project. However, the recipient shall make all final decisions. The EPA PO will provide input to the recipient on the various project tasks. This will occur through monthly phone conferences between the recipient and the EPA PO.



**AGENDA ITEM SUMMARY**

**DATE:** 02/15/2011 **DEPARTMENT:** Police & Fire **DEPT. HEAD SIGNATURE:** Jeff Gunter

**SUBJECT:** Authorize the Mayor to sign a MOU between Blaine County and the City of Hailey regarding 700 MHZ radio's and associated costs.

**AUTHORITY:**  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

As you are aware, the city will be federally mandated in the year 2013 to shrink the radio band width or frequency. In preparation to meet the federal mandate, the county and city law enforcement agencies have been successfully awarded grants in the neighborhood of 1.5 million dollars. The grant money has to purchase radio towers and radios. The grants have greatly reduced the burden of the cost to the tax payer to meet the federal mandate. However there are associated costs of 16142.80 for land leases, radio licenses and a secure T-1 line for connectivity. There is also a 40.00 per radio cost to access the master site. These costs are divided by number of radio's using the system. This cost will drop in time as more users join the system. The cost per radio will be prorated @ 81.69 for fiscal budget year 2011 and 140.00 dollars or less for fiscal year 2012. The police department cost this year for 15 radios will be 1224.75, the fire departments cost will be 163.30. There is no budget impact as the police department will no longer be paying rent on the Della Mountain repeater and we will no longer need to purchase in car radios.

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:** Casele # \_\_\_\_\_  
Budget Line Item #\_ will be less than budgeted \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_

Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_

Staff Contact: \_\_\_\_\_ Phone # \_\_\_\_\_

Comments: \_\_\_\_\_

**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS:** (IF APPLICABLE)

____ City Attorney	____ Clerk / Finance Director	____ Engineer	____ Building
____ Library	____ Planning	<u>  x  </u> Fire Dept.	____
____ Safety Committee	____ P & Z Commission	<u>  x  </u> Police	____
____ Streets	____ Public Works, Parks	____ Mayor	____

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Authorize Mayor to sign Memorandum of Understanding with Blaine County for 700 MHZ radios.

**ACTION OF THE CITY COUNCIL:**

Date \_\_\_\_\_

City Clerk \_\_\_\_\_

**FOLLOW-UP:**

\*Ord./Res./Agmt./Order Originals: Record  
Copies (all info.): \_\_\_\_\_  
Instrument # \_\_\_\_\_

\*Additional/Exceptional Originals to: \_\_\_\_\_  
Copies (AIS only)

**MEMORANDUM OF UNDERSTANDING**

**between**

**BLAINE COUNTY, IDAHO**

**And**

**THE CITY OF HAILEY**

**Issuance of 700 MHz P25 compliant Motorola XTS2500 portable radios**

This Memorandum of Understanding ("MOU") for **Issuance of 700 MHz P25 compliant Motorola XTS2500 portable radios** is hereby entered into by and between Blaine County, Idaho, hereinafter referred to as the "County"; and the "City" of Hailey, hereinafter referred to as the City. The City and County may hereinafter be collectively referred to as "Parties".

**1. PURPOSE:** The County and local jurisdictions have identified the need to develop a partnership for a radio communications system based on 700 MHz trunked standards. This system will improve local interoperability communications as well as enhance communications with regional and state agencies. The purpose of this MOU is to provide guidelines for interaction between the County and the City on the Interoperable Communications System located at the following sites: Bald Mountain, Dollar Mountain, Notch Butte and Picabo, and connectivity to state communications infrastructure.

**2. IT IS MUTUALLY AGREED AND UNDERSTOOD BY ALL PARTIES THAT:**

**Responsibilities (County)**

- Provide building space, tower space and 700 MHz trunked repeater equipment on Bald Mountain, Dollar Mountain and Picabo sites to the agency at a value of \$1.3 million.
- Provide 700 MHz radio system access to the State of Idaho, Public Safety System.
- Provide a total of ten (2 Hailey Fire and 8 Hailey Police) 700 MHz P25 compliant Motorola XTS2500 portable radios and initial set-up and programming at a current market value of \$26,450.
- Accomplish a review of subscriber units each quarter, to ensure efficiency of the system.
- Maintain standard guidelines that meet the requirements established by the State User Board in reference to programming and activating radios on the local and state systems.
- Act as the fiscal agent in negotiating lease agreements for communications sites and state connectivity.
- Provide oversight to local users for the master switch at Ada County.
- Monitor alarms and coordinate repair of the 700 MHz trunked repeater equipment.
- Maintain FCC licenses and coordinate renewals.

## **Responsibilities (City)**

- Keep County advised of number of subscriber units used by the agency including all additional units purchased by the agency.
- Pay a prorated annual fee for subscriber units added to the system after October 1, 2010.
- Request authorization and coordination from the County for new subscriber units prior to activation.
- Maintenance of Agency's portable and mobile 700 MHz equipment.
- Any cost associated with future purchases of portable or mobile units will be incurred by the City/Agency.
- Any cost associated with programming changes or set-up expenses to future equipment will be incurred by the City.
- Assist the County in negotiations with the State of Idaho on sustainability of the system.
- Participate in fiscal management of the system.

## **Maintenance**

The County plans to decommission its UHF/VHF systems at a future date. Any City or agency owned UHF or VHF systems will remain the owner's responsibility.

## **Terms and Termination**

This MOU is subject to termination with or without cause by either party with a 90 day written notification prior to the commencement of the County's fiscal year (October 1). Failure to pay the annual assessment as outlined in Cost and Recovery will result in automatic termination of access to the system, and all equipment granted under the terms of this agreement shall be returned to the County within thirty (30) days.

## **Cost and Recovery**

The respective parties are responsible for any cost or fees associated or negotiated for their individual system or equipment prior to this agreement. The current costs associated with the regional 700MHz system include:

- The State's monthly reoccurring fee is based on distance determined by GPS coordinates from Notch Butte to the Master Site located in Meridian, Idaho at the rate of \$4.60 per mile for 118 miles of T-1 line for a cost of \$6,442.80 annually.
- Lease agreements and utilities at the Picabo, Baldy and Dollar sites totaling \$6,700 annually.
- Approximately \$3000 in FCC application and licensing fees.
- Master Site connectivity \$40 per subscriber.

In order to cover respective parties' system costs, an annual fee per subscriber unit will be assessed. Total costs for October 1, 2011 fiscal year will be \$140 per subscriber unit prorated (\$11.67 per month) from date of signing through September 30, 2011.

## **Modifications**

Modifications within the scope of this MOU shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed. Notification will be made to the City of any cost adjustments in writing prior to any changes in billing.

**Commencement/Expiration Date**

This MOU is executed as of the date of last signature and shall have a term of one (1) year.

**3. APPROVALS:**

**THE PARTIES HERETO** have executed this instrument.

\_\_\_\_\_  
City of Hailey

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attest:  
City of Hailey Clerk

\_\_\_\_\_  
Angenie McCleary  
Blaine County Commissioner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attest: JoLynn Drage  
Blaine County Clerk

AGENDA ITEM SUMMARY

DATE: 2/24/11 DEPARTMENT: Finance & Records DEPT. HEAD SIGNATURE: \_\_\_\_\_

SUBJECT:

New Alcohol Beverage License for Raspberry's Delicatessen

AUTHORITY:  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code 5.04, 5.08, 5.12  
(IFAPPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

New Restaurant – Alcohol Beverage License will expire on July 31, 2011 at which time they will need to reapply to the State, County and City.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:

Caselle # \_\_\_\_\_  
Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_  
Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_  
Staff Contact: \_\_\_\_\_ Phone # \_\_\_\_\_

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IFAPPLICABLE)

____ City Attorney	____ Clerk./ Finance Director	____ Engineer	____ Building
____ Library	____ Planning	____ Fire Dept.	_____
____ Safety Committee	____ P & Z Commission	____ Police	_____
____ Streets	____ Public Works, Parks	____ Mayor	_____

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Approve the following alcohol beverage licenses, which have been approved by HPD.

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator \_\_\_\_\_ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:

Date \_\_\_\_\_  
City Clerk \_\_\_\_\_

FOLLOW-UP:

\*Ord./Res./Agmt./Order Originals: \_\_\_\_\_ \*Additional/Exceptional Originals to: \_\_\_\_\_  
Copies (all info.): \_\_\_\_\_ Copies  
Instrument # \_\_\_\_\_

# City of Hailey

115 MAIN STREET SOUTH, SUITE H  
HAILEY, IDAHO 83333

(208) 788-4221  
Fax: (208) 788-2924

February 11, 2011

Raspberry's Delicatessen  
Box 8920  
Ketchum, ID 83340

Subject: Temporary Alcohol Beverage License

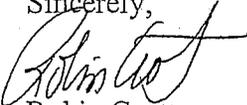
Dear Maeme & Callie Raspberry:

Thank you for submitting your paperwork for your Alcohol license. Your alcohol license will expire on 8/31/2011. This letter temporarily authorizes Raspberry's to fully operate business in the City of Hailey until such time as the City Council approves your application.

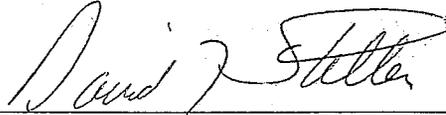
The City Council will review your Alcohol Beverage License Application on September 28, 2011 at their regularly scheduled meeting. If the council approves your application, we will forward your new certificate via the mail.

Please contact me at 208-788-4221, extension 11, if you have any further questions.

Sincerely,

  
Robin Crotty  
City Clerk

Temporary Hailey Police Chief Authorization: \_\_\_\_\_





# ALCOHOL BEVERAGE LICENSE APPLICATION

### APPLICATION FOR:

Liquor \$562.50

Wine by the Drink \$200.00  200.00

Beer by the Drink \$200.00  200.00

Grocery Sale of Wine \$200.00

Grocery Sale of Beer \$50.00

### APPLICATION IS:

New License

Renewal

Transfer

TOTAL DUE: 400.00

Applicant Name: Maeme Rasberry / Cailie Rasberry

Business Name: Rasberry's Delicatessen

Business Physical Address: 315 S Main St. Hailey, ID 83333

Business Mailing Address: P.O. Box 8970 Ketchum ID 83340

Business Phone Number: 208 928-7711

Property Owner (if different from applicant): John McGowan

*(Applicant must attach certified copy of lease showing that owner consents to sale of alcohol on premises.)*

I hereby certify that the above statements are true, complete and correct to the best of my knowledge. I further certify that I have applied for and received the Idaho State Liquor License (copy attached) and the Blaine County Liquor License (copy attached).

[Signature]  
Applicant Signature

10.18.10  
Date

Subscribed and sworn to before me this 18 day of October, 20 10

[Signature]  
Notary Public OR City Clerk

Residing at: Hailey ID  
My Commission Expires 11-20-2013



<b>Official Use Only</b>	
State License No.	<u>SB-11517</u>
County License No.	<u>16946</u>
City License No.	_____
Date Approved by Council	_____
<u>[Signature]</u>	Chief of Police

115 MAIN ST. S., SUITE H ■ HAILEY, IDAHO 83333 ■ 788-4221

# State of Idaho

## Idaho State Police

Cycle Tracking Number: 51334

Premise Number: 5B-11517

Retail Alcohol Beverage License

License Year: 2011

License Number: 11517

This is to certify, that **Rasberry's Restaurants LLC** doing business as: **Rasberry's**

is licensed to sell alcoholic beverages as stated below at: **315 S. Main St., Hailey, Blaine County**

Acceptance of a license by a retailer shall constitute knowledge of and agreement to operate by and in accordance to the Alcohol Beverage Code, Title 23. Only the licensee herein specified shall use this license.

Liquor	No	
Beer	Yes	\$50.00
On-premise consumption	Yes	\$0.00
Kegs to go	No	
Restaurant	No	
Wine by the bottle	Yes	\$100.00
Wine by the glass	Yes	\$100.00
<b>TOTAL FEE:</b>		<b>\$250.00</b>

Signature of Licensee, Corporate Officer, LLC Member or Partner

RASBERRY'S RESTAURANTS LLC  
 RASBERRY'S  
 PO BOX 3177  
 HAILEY, ID 83333  
 Mailing Address

License Valid: 01/27/2011 - 07/31/2011  
Expires: 07/31/2011

*Gregory Russell*

Director of Idaho State Police