

**STATE OF INDIANA
ECONOMIC DEVELOPMENT FUND
GRANT AGREEMENT
(REV: 6/04)
GRANT I.D.: EDF-04-280**

THIS AGREEMENT, entered into by and between **INDIANA ECONOMIC DEVELOPMENT CORPORATION** (hereinafter referred to as the "State") and the **Grant County Commissioners** (hereinafter referred to as the "Grantee"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. PURPOSE OF AGREEMENT:

The purpose of this Agreement is to enable the State to make a grant from the State of Indiana's Economic Development Grant Fund (EDF) of **Twenty Five Thousand Dollars and No Cents (\$25,000.00)**, to the Grantee named above, for eligible costs of the project as described in Exhibits A and B of this agreement. The grant shall be used exclusively in accordance with the provisions contained in this agreement and in Indiana Code 4-4-7 establishing the Economic Development Grant Fund, as well as any rules adopted there under.

2. USE OF GRANT FUNDS BY GRANTEE:

Grant funds received by the Grantee pursuant to this Agreement shall be used only to institute an approved economic development project permitted by Indiana Code 4-4-7, which project is described fully in Exhibits A and B, attached hereto, made a part hereof and incorporated herein by reference as part of this Agreement.

3. DESIGN AND IMPLEMENTATION OF PROJECT:

The Grantee shall be solely responsible for the proper design and implementation of the economic development project as described in Exhibit A. Although not expressly attached to this agreement, the Grantee agrees to complete said project in accordance with the plans and specifications contained in its application. Modification of its application shall require prior written approval of the State.

4. GRANTEE'S DUTIES AND RESPONSIBILITIES:

(A.) The Grantee is responsible for submitting to the State on a calendar quarterly basis, a Quarterly Progress Report. These reports must detail progress made towards meeting the goals as described in Exhibit A of this Agreement.

(B.) The Quarterly Progress Reports must be submitted until **November 1, 2005** (the "Goal Date") or until all goals have been met.

(C.) Should the goals set forth in Exhibit A of this Agreement fail to be met by said goal date, then a written justification detailing why said goal(s) will not be met on time must be submitted to the State within thirty (30) days of the Goal Date.

(D.) In the event that such Quarterly Progress Reports are not submitted within the time frame allotted, the State may withhold authorization for any payment request of the grant funds until such time as the deficiency is corrected.

5. TERM OF AGREEMENT:

The term of this Agreement shall be from the date of final execution by all parties hereto until **May 1, 2006**, unless sooner terminated as described in this Agreement. All work and/or services under this Agreement must be completed by **November 1, 2005** (the "Expiration Date"). In no event shall payments be made for work done or services performed after the Expiration Date. All draw downs of grant funds must be completed within thirty (30) days after the completion of work done or services

performed. The Grantee may request in writing that the Expiration Date only of this Agreement be extended; such request must be submitted before the Expiration Date. A duly authorized representative of the State may approved such request in writing for a period of one (1) year or less, however, no longer than **May 1, 2006**. If the Expiration Date is extended, all other provisions of this Agreement shall remain in full force and effect.

6. PROJECT BUDGET AND BUDGET MODIFICATION:

The project budget is set forth as Exhibit B of this Agreement, attached hereto, made a part hereof and incorporated herein by reference as part of this Agreement. The Grantee shall not spend more than the amount for each line item, as described in Exhibit B of this Agreement, without the prior written consent of a duly authorized representative of the State, nor shall the project costs funded by the grant, local and those funded by the local and/or private share be amended without the prior written consent of the State.

7. PAYMENT OF GRANT FUNDS BY THE STATE:

The payment of this Grant by the State to the Grantee shall be made in accordance with the following schedule and conditions:

- (A.) This Agreement must be fully executed.
- (B.) All the evidentiary materials required by Exhibit C attached hereto and incorporated must be submitted to and approved by the State.
- (C.) Any other grant conditions as specified in Exhibit C must be met to the State's satisfaction.
- (D.) All payments will be made in arrears only upon presentation of approved and signed State of Indiana claim vouchers. Such claim vouchers must be submitted with a Budget Expenditure Report detailing disbursements of grant, local and/or other funds by project budget line items as set forth in Exhibit B of this Agreement.
- (E.) The State may require evidence furnished by the Grantee that substantial progress has been made towards completion of the project, as described in Exhibit A, prior to making the first payment under this Agreement. All payments are subject to the State's determination that the Grantee's performance to date conforms with the project as approved and described in Exhibit A, notwithstanding any other provision of this Agreement.
- (F.) As stated in Paragraph 4 of this Agreement, all Quarterly Progress Reports must be submitted in the time frame allotted. In the event the Quarterly Progress Reports are not submitted in the time frame allotted, the State may withhold authorization for any payment request until such time as the deficiency is corrected.
- (G.) The State shall retain an amount of up to **(\$6,250.00)** or Twenty-Five Percent (25%) of the total grant amount until the State receives the following documents:
 - (1.) A Monitoring Report prepared by a duly authorized representative of the State detailing how funds have been spent on the project as described in Exhibits A and B of this Agreement and an evaluation as to the Grantee's timely progress. This Monitoring Report is subject to Paragraph 8 of this Agreement.
 - (2.) A final payment request submitted on an approved and signed State of Indiana claim voucher and a Budget Expenditure Report.
- (H.) Notwithstanding any other provision of this Agreement, the Grantee expressly agrees that the monies provided herein by the State are limited to **Twenty Five Thousand Dollars and No Cents (\$25,000.00)**, of the project cost as described in Exhibits A and B of this Agreement.

8. MONITORING REPORT BY THE STATE:

- (A.) After completion of the project described in Exhibit A of this Agreement and before the final payment of up to **(\$6,250.00)** or Twenty-Five Percent (25%) of the grant can be paid to the Grantee, the State will conduct an on-site monitoring review of the project. The Monitoring Report will document the following:
- (1.) Whether state, local and/or private funds allocated for the project were expended for activities consistent with the Grantee's grant application and Exhibits A and B of this agreement.
 - (2.) A complete, detailed analysis of actual state, local and/or private funds expended to date on the project and conformity with the amounts for each budget line item as set forth in Exhibit B of this agreement.
 - (3.) A detailed listing of all project costs by project budget line item which are accrued yet unpaid, if any;
 - (4.) A written evaluation as to the Grantee's timely progress in project management, financial management and control systems, procurement systems and methods, and performance relative to timely submission of Quarterly Project Reports; and
 - (5.) A written evaluation as to the Grantee's compliance with procurement policy and procedures.
- (B.) The State will carry out the monitoring review and evaluation of activities as deemed appropriate. The Grantee will effectively ensure the cooperation of the Grantee's employees in such monitoring and evaluation efforts. The grantee will take all actions necessary to correct or cure any findings identified by the State during its monitoring and evaluation.
- (C.) If the Grant is terminated by either party prior to the Expiration Date set forth in Paragraph 5 of this Agreement, pursuant to Paragraph 13 of this Agreement, the State will promptly conduct an on-site monitoring of the project and complete a project Monitoring Report.
- (D.) Failure to complete the project and expend state, local and/or private funds in accordance with this agreement may be considered a material breach of the agreement and shall entitle the State to impose sanctions against the Grantee including, but not limited to, suspension of all grant payments, and/or suspension of the Grantee's participation in State grant programs until such time as all material breaches are cured to the State's satisfaction. Sanctions may also include repayment of all state funds expended for activities which are not in the scope of this project as set forth in Exhibits A and B of this Agreement.

9. STATUTORY AUTHORITY OF GRANTEE:

If the Grantee in this Grant is a qualified entity under Indiana Code 4-4-7, it expressly warrants to the State that it is statutorily eligible to receive monies from the economic development grant fund, and it expressly agrees to repay all monies paid to it under this Agreement, should a legal determination of its ineligibility be made by any court of competent jurisdiction.

10. GOVERNING LAWS:

This Agreement shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.

11. COMPLIANCE WITH LAWS:

The Grantee shall comply with all applicable federal, state and local laws, rules, regulations, or ordinances, the provisions of which are incorporated by reference. The enactment or amendment of any applicable state or federal statute or the promulgation of any rules or regulations there-under after execution of this Agreement shall be reviewed by the State and the Grantee to determine whether the provisions of this Agreement require formal modification.

12. FUNDING CANCELLATION CLAUSE:

When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of a Agreement, the agreement shall be canceled. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

13. TERMINATION OF AGREEMENT:

This Agreement may be terminated with or without cause by the Grantee or the State before its Expiration Date by sending the Grantee or the State written notice via certified mail, return receipt requested, at least thirty (30) days prior to the date of termination. Upon receipt of this notice from the State to the Grantee, no new or additional liabilities payable by the State shall be incurred without the prior written approval of the State. The Grantee shall continue to be responsible and liable for the proper performance of its obligations to the date of termination. In the event of such termination by either party, the State will perform an on-site monitoring of all project expenditures and complete a Monitoring Report, as described in Paragraph 8 of this Agreement, with respect to the Grantee's proper expenditure of all grant, local and/or other funds through the date of termination.

14. PENALTIES/INTEREST/ATTORNEYS' FEES:

The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorneys' fees, except as authorized by Indiana law, in part, Indiana Code 5-17-5, Indiana Code 34-54-8, and Indiana Code 34-13-1.

Notwithstanding the provisions contained in IC 5-17-5, the Parties stipulate and agree that any liability resulting from the State of Indiana's failure to make prompt payment shall be based solely on the amount of funding originating from the State of Indiana and shall not be based on funding from federal or other sources.

15. INDEMNIFICATION:

Grantee agrees to indemnify, defend, and hold harmless the State of Indiana and its agencies, officials, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Grantee and/or its subcontractors, if any. The State shall not provide such indemnification to the Grantee.

16. INDEPENDENT CONTRACTOR:

- (A.) Both parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume any liability for any injury (including death) to any persons, or damage to any property arising out of the acts or omissions of the agents, employees, or subcontractors of the other party.
- (B.) The Grantee shall be responsible for providing all necessary unemployment and worker's compensation insurance for the Grantee's employees.

17. NOTICE TO PARTIES:

Whenever any notice, statement or other communication is required under this Agreement, it shall be sent to the following addresses, unless otherwise specifically advised.

- (A.) Notices to the State shall be sent to:

INDIANA ECONOMIC DEVELOPMENT CORPORATION
Finance & Administrative Services Division
Office of Development Finance
One North Capitol Avenue, Suite 700
Indianapolis, IN 46204-2288

(B.) Notices & Payments to the Grantee shall be sent to:

David Glickfield, President
Grant County Commissioners
401 S Adams Street
Marion, Indiana 46953

18. AUTHORITY TO BIND:

Notwithstanding anything in this Agreement to the contrary, the signatory for the Grantee represents that he/she has been duly authorized to execute Agreements on behalf of the Grantee and has obtained all necessary or applicable approvals from the home office of the Grantee to make this Agreement fully binding upon the Grantee when his/her signature is affixed, and this Agreement is not subject to further acceptance by Grantee when accepted by the State of Indiana.

19. ETHICS REQUIREMENT:

The grantee and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in Indiana Code § 4-2-6 et seq., the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the grantee is not familiar with these ethical requirements, the grantee should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at [<<<<http://www.in.gov/ethics/>>>>](http://www.in.gov/ethics/). If the grantee or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this grantee immediately upon notice to the grantee. In addition, the grantee may be subject to penalties under Indiana Code § 4-2-6-12

20. NONDISCRIMINATION:

Pursuant to Indiana Code 22-9-1-10 and the Civil Rights Act of 1964, Grantee and its Sub-Grantees shall not discriminate against any employee or applicant for employment in the performance of this Agreement. The Grantee shall not with respect to the hire, tenure, terms, conditions, or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, handicap, national origin, ancestry. Breach of this covenant may be regarded as a material breach of contract. Acceptance of this Grant also signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran. The Grantee understands that the State is a recipient of federal funds. Pursuant to that understanding, the Grantee and its subcontractors, if any, agree that if the Grantee employs fifty (50) or more employees and does at least Fifty Thousand Dollars (\$50,000.00) worth of business with the State and is not exempt, the Grantee will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The Grantee shall comply with Section 202 or Executive Order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of contract.

21. SEVERABILITY:

The invalidity of any section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Agreement.

22. REMEDIES NOT IMPAIRED:

No delay or omission of the State in exercising any right or remedy available under this Agreement shall impair any such right or remedy, or constitute a waiver of any default or any acquiescence thereto.

23. TAXES:

The State of Indiana is exempt from state, federal and local taxes. The State will not be responsible for any taxes levied on the Grantee as a result of this Agreement.

24. ACCESS TO RECORDS:

The Grantee and its subcontractors, if any, shall maintain all books, documents, papers, accounting records and other evidence pertaining to the costs incurred for the project and shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three (3) years from the date of final payment under this Agreement; for inspection by any authorized representative of the State and copies thereof shall be furnished at no cost to the State if requested.

25. WAIVER OF RIGHTS:

No right conferred on either party under this Agreement shall be deemed waived and no breach of this Agreement excused, unless such waiver or excuse shall be in writing and signed by the party claimed to have waived such right.

26. CONFIDENTIALITY OF DATA, PROPERTY RIGHTS IN PRODUCTS, AND COPYRIGHT PROHIBITION:

The Grantee agrees that all information, data, findings, recommendations, proposals, etc. by whatever name described and in whatever form secured, developed, written or produced by the Grantee in furtherance of this Agreement shall be the property of the State. The Grantee shall take such action as is necessary under law to preserve such confidentiality and property rights in and of the State while such property is within the control and/or custody of the Grantee. The Grantee hereby specifically waives and/or releases to the State any cognizable property right of the Grantee to copyright, license, patent or otherwise use such information, data, findings, recommendations, proposals, etc.

27. CONFIDENTIALITY OF STATE INFORMATION

The Grantee understands and agrees that data, materials, and information disclosed to Grantee may contain confidential and protected data. Therefore, the Grantee promises and assures that data, material and information gathered, based upon or disclosed to the Grantee for the purpose of this Agreement, will not be disclosed to others or discussed with third parties without the prior written consent of the State.

28. DRUG-FREE WORKPLACE CERTIFICATION:

- (A.) The Grantee hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. Grantee will give written notice to the State within ten (10) days after receiving actual notice that the Grantee, or an employee of the Grantee has been convicted of a criminal drug violation occurring in the Grantee's workplace.
- (B.) In addition to the provisions of subparagraph (A.) above, if the total Agreement amount set forth in the Agreement is in excess of Twenty-Five Thousand Dollars (\$25,000.00), the Grantee hereby further agrees that this Agreement is expressly subject to the terms, conditions and representations contained in the Drug-Free Workplace certification executed by the Grantee in conjunction with this Agreement and which is set forth in Paragraph 28 of this Agreement.
- (C.) It is further expressly agreed that the failure of the Grantee to in good faith comply with the terms of subparagraph (A.) above, or falsifying or otherwise violating the terms of the certification referenced in subparagraph (B.) above, shall constitute a material breach of this Agreement, and shall entitle the State to impose sanctions against the Grantee including, but not limited to, suspension of payment, termination of this Agreement and/or debarment of the Grantee from doing further business with the State for up to three (3) years.

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Administration is requiring the inclusion of this certification in all Grants with and grants from the State of Indiana in excess of \$25,000. No award of a contract or grant shall be made, and no contract, purchase order or

agreement, the total amount of which exceeds \$25,000, shall be valid, unless and until this certification has been fully executed by the Grantee and made a part of the Agreement as part of the Agreement documents. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of grant payments, termination of the Agreement and/or debarment of grant opportunities with the State for up to three (3) years.

The Grantee certifies and agrees that it will provide a drug-free workplace by:

- (A.) Publishing and providing to all of its employees a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and
- (B.) Establishing a drug-free awareness program to inform employees about:
 - (1.) The dangers of drug abuse in the workplace;
 - (2.) The Grantee's policy of maintaining a drug-free workplace;
 - (3.) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4.) The penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- (C.) Notifying all employees in the statement required by subparagraph (A.) above that as a condition of continued employment the employee will:
 - (1.) Abide by the terms of the statement; and
 - (2.) Notify the Grantee of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- (D.) Notifying in writing the State within ten (10) days after receiving notice from an employee under subdivision (C.)(2.) above, or otherwise receiving actual notice of such conviction; and
- (E.) Within thirty (30) days after receiving notice under subdivision (C.)(2.) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace:
 - (1.) Take appropriate personnel action against the employee, up to and including termination; or
 - (2.) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purpose by a Federal, State or local health, law enforcement, or other appropriate agency; and
- (F.) Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A.) through (E.) above.

29. STATE BOILERPLATE AFFIRMATION CLAUSE:

I swear or affirm under the penalties of perjury that I have not altered, modified or changed the State's Boilerplate contract clauses in any way except for the following paragraphs:

#4 GRANTEE'S DUTIES AND RESPONSIBILITIES

30. NON-COLLUSION AND ACCEPTANCE:

The undersigned attests, subject to the penalties for perjury, that he/she is the contracting party, or that he/she is the representative, agent, member or officer of the contracting party, that he/she has not, nor has any other member, employee, representative, agent or officer of the contracting party, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of the Agreement.

31. CONFLICT OF INTEREST:

- (A.) As used in this section:
 - (1.) "Immediate family" means the spouse and the unemancipated children of an individual.
 - (2.) "Interested party" means:
 - (a.) The individual executing this Agreement;
 - (b.) An individual who has an interest of three percent (3%) or more of the Grantee, if the Grantee is not an individual; or
 - (c.) Any member of the immediate family of an individual specified under subdivision 1 or 2.
 - (3.) "Department" means the Indiana Department of Administration.
 - (4.) "Commission" means the State Ethics Commission.
- (B.) The Department may cancel this Agreement without recourse by the Grantee if any interested party is an employee of the State of Indiana.
- (C.) The Department will not exercise its right of cancellation under subparagraph (B.) above if the Grantee gives the Department an opinion by the Commission indicating that the existence of this Agreement and the employment by the State of Indiana of the interested party does not violate any statute or code relating to ethical conduct of state employees. The Department may take action, including cancellation of this Agreement consistent with an opinion of the Commission obtained under this section.
- (D.) Grantee has an affirmative obligation under this Agreement to disclose to the Department when an interested party is or becomes an employee of the State of Indiana. The obligation under this section extends only to those facts that Grantee knows or reasonably could know.

The parties having read and understand the foregoing terms of the contract do by their respective signatures dated below hereby agree to the terms thereof, including, if this Agreement is in excess of \$25,000.00, Paragraph 27, Drug-Free Workplace Certification.

Grant County Commissioners

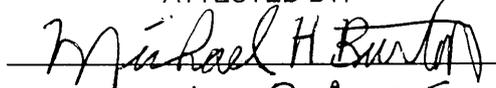


Jeremy Diller

President, Board of Commissioners

DATE: 4/20/05

ATTESTED BY:



Michael H. Burton

DATE: 4-20-05

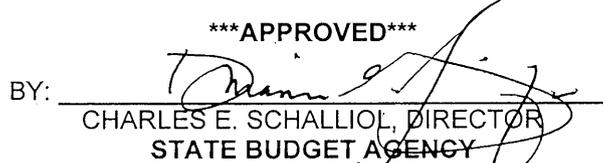
INDIANA ECONOMIC DEVELOPMENT CORPORATION



PATRICIA R. MILLER, SECRETARY OF COMMERCE

DATE: 5.4.05

APPROVED

BY: 

CHARLES E. SCHALLIOL, DIRECTOR
STATE BUDGET AGENCY

DATED: 05/12/05

EXHIBIT A
EDF-04-280 DESCRIPTION OF PROJECT

The Indiana Economic Development Corporation will provide a grant from the Economic Development Grant Fund (EDF) in the amount of **Twenty Five Thousand Dollars and No Cents (\$25,000.00)** of the eligible project costs, whichever is less, to facilitate this project as allowed under IC 4-4-7-6 as an economic development program.

The implementation of the first stage of the on-going image-building campaign to include the development of all materials and dissemination to selected targets.

**EXHIBIT B
PROJECT BUDGET
GRANT I.D.: EDF-04-280**

PROJECT COST LINE ITEMS	GRANT FUNDS	LOCAL FUNDS	IN-KIND FUNDS	OTHER FUNDS	TOTAL COSTS
1.) Training	\$ -	\$ -	\$ -	\$ -	\$ -
2.) Construction	\$ -	\$ -	\$ -	\$ -	\$ -
3.) Professional Fees	\$ 25,000	\$ 5,000			\$ 30,000
4.) Administration:					
A.) Salary & Fringe	\$ -	\$ -	\$ -	\$ -	\$ -
B.) Legal	\$ -	\$ -	\$ -	\$ -	\$ -
C.) Reply Card Database	\$ -	\$ -	\$ -	\$ -	\$ -
D.) Supplies	\$ -	\$ -	\$ -	\$ -	\$ -
E.) Utilities	\$ -	\$ -	\$ -	\$ -	\$ -
F.) Postage	\$ -	\$ -	\$ -	\$ -	\$ -
G.) Telephone Cost	\$ -	\$ -	\$ -	\$ -	\$ -
H.) Cellular Phone Cost	\$ -	\$ -	\$ -	\$ -	\$ -
I.) Equipment Lease	\$ -	\$ -	\$ -	\$ -	\$ -
J.) Equipment Purchases	\$ -	\$ -	\$ -	\$ -	\$ -
K.) Printing	\$ -	\$ -	\$ -	\$ -	\$ -
L.) Other**					
1.) Promotion	\$ -	\$ -	\$ -	\$ -	\$ -
2.) Web Site	\$ -	\$ -	\$ -	\$ -	\$ -
Total Project Cost:	\$ 25,000	\$ 5,000	\$ -	\$ -	\$ 30,000

EXHIBIT C
EDF-04-280 CONDITIONS FOR RELEASE OF FUNDS

(1.) The following documents must be submitted to and approved by the State before any funds may be received under this Agreement:

Copies of proposed agreements between the Grantee and all consultants to be paid with grant funds.

(2.) The following conditions must be fulfilled to the satisfaction of the State before any funds may be received under this Agreement:

- **Project Timeline:**

- A. The project will be completed in 10 months

- **Sustainability:**

- A. The ongoing commitment to identifying funds for the continuation of this project.

- **Budget:**

- A. Creation of profiles in success, description of workforce & education programs, inventory of quality of life assets and the development of final materials