

Community MT Division

Montana Historic Preservation Grant Program

Exhibit 1-C

Sample Grant Assistance Agreement

Note: This sample should not simply be copied. It is only provided as a sample to help create an agreement with a governmental entity or subrecipient that is to be reviewed and approved by all parties and their attorneys.

This contract is entered into by (insert name of grantee), herein referred to as "the grantee," and the (insert name of subrecipient), herein referred to as "the subrecipient."

Witnesseth that:

Whereas, the grantee is the recipient of a Montana Historic Preservation Grant Program grant to (describe the project) owned and operated by the subrecipient; and

Whereas, this contract between the grantee and the subrecipient will enable them to enhance cooperation in implementing the grantee's MHPG award to accomplish the above-described project; and

Whereas, the grantee, in its capacity as an MHPG grantee, has determined that the subrecipient can better supervise the design and construction phases of the (name of preservation project/activities); and

Whereas, the Montana Department of Commerce has required the grantee to enter into a contract with the subrecipient specifying the terms and conditions of the grantee's delegation of certain MHPG grant management responsibilities to the subrecipient; and

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Whereas, both parties to this contract understand that neither grantee involved herein has in any way, expressly or implied, abrogated any of its individual powers, and that this contract does not create any new organization or legal entity.

Now, therefore, the grantee and the subrecipient mutually agree as follows:

I. Responsibilities delegated to the subrecipient

- A. The subrecipient will, subject to prior approval by the grantee or the grantee's board of directors, retain the services of a consulting engineering/architectural firm to design and supervise the construction of the project.
- B. The subrecipient will be responsible for all facets of the design and construction phases of the project, including the following:
 1. Design engineering/architectural services;
 2. Construction engineering;
 3. Except as provided by paragraph IV. Administration below, compliance with all applicable state and federal requirements;
 4. Except as provided by paragraph IV. Administration below, compliance with all other state and federal requirements as described in the MHPG project administration manual;
 5. Preparation of construction bid documents; and
 6. Supervision of the bid process, the awarding of construction contracts and construction of the project. The selection of the project contractor will be subject to the ratification or approval of the grantee, and bid solicitation documents will reflect this requirement.

- C. The subrecipient and its consulting engineer/architect will receive, review and approve all requests for reimbursement for the items contained in paragraph B, above, and prepare and submit such requests to the grantee or the grantee's board of directors in a timely fashion in accordance with established procedures.
- D. During the term of this contract, the subrecipient will maintain reasonable records of its performance hereunder in a manner consistent with generally accepted accounting principles. The subrecipient will allow the grantee and Commerce and their authorized representatives access to these records at any time during normal business hours. At the request of the grantee, the subrecipient will submit to the grantee, in the format prescribed by the grantee, status reports on its performance under this contract.
- E. The subrecipient will provide documentation that the local share of the project that exceeds MHPG funds may be accessed by the grantee for the project no later than the time of construction bid award.

II. Payment of design and construction costs incurred by the subrecipient

In consideration of the subrecipient's acceptance of the responsibilities described in paragraph I, above, the grantee agrees to the following:

- A. Upon receipt of a valid claim for payment from the subrecipient for allowable project costs as specified in the grantee's contract with Commerce, a copy of which is appended as Attachment A of this contract, and which by this reference is made a part hereof, the grantee will request the required amount of MHPG funds from Commerce; and upon receipt of these funds, the grantee will honor the subrecipient's claim and pay the engineer/architect or contractor accordingly.

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- B. Each payment for engineering and construction costs will be requested from MHPG and subrecipient funds (if applicable) in amounts that are proportionate to the percentage that such funds represent of the total cost of the project as specified in Exhibit B of Attachment A.
- C. The grantee will deduct a retainage from each payment request equal to five percent of the request, submitted by the subrecipient for construction costs incurred by the project contractor and hold this retainage until construction is completed, the engineer/architect approves final payment and the project is accepted, all in accordance with the conditions of the construction contract.
(Note: A retainage requirement is optional.)
- D. The grantee will also withhold one percent of the amount of any claim submitted by the contractor and will forward this amount to the Montana Department of Revenue pursuant to section 15-50-206(2), MCA.
- E. The grantee may refuse to pay any claim which it deems not valid under the terms of the MHPG contract with Commerce (Attachment A). Any agreement between an MHPG grantee and a subrecipient should include a scope of work, which includes a description of the work to be performed, a schedule for completing the work and a budget. (Note: These items are standard components of any MHPG grant agreement, which is referred to here as an attachment.)

III. Duration of the contract

- A. This contract takes effect when the following conditions are satisfied:
 - 1. Commerce and the grantee have executed the MHPG contract;
 - 2. The grantee's attorney and the attorney for the subrecipient have approved this contract as to form and content; and

3. The grantee and the subrecipient's governing body have each reviewed this contract and agreed fully to its terms and conditions.

- B. This contract will terminate 90 days after the project engineer/architect files a certificate of completion of the project with the appropriate state and/or federal agency and Commerce closes out the MHPG project with the grantee.

IV. Administration

For purposes of implementing the joint undertaking established by this contract, the grantee and the subrecipient hereby agree to coordinate with the grantee's MHPG contract liaison, the project engineer/architect and a designated representative of the subrecipient. These individuals may meet on a regular basis during the term of the MHPG project to provide for the efficient and effective implementation of this project.

V. Management of real property or equipment acquired

The primary purpose of this contract is to allow the grantee to delegate responsibility for the design and construction of the subrecipient's project to the subrecipient and to define the procedures by which the grantee will disburse MHPG funds to pay the costs incurred as a result of these activities. The subrecipient's facilities will be constructed or improved as described in the MHPG contract with Commerce (Attachment A), and the subrecipient may continue to own and operate those facilities subject to the limitations contained in subparagraph B.

Upon the expiration of this contract, the subrecipient will transfer to the grantee any MHPG funds on hand at the time of expiration and any accounts receivable attributable to the use of MHPG funds.

VI. Indemnification

The district/subrecipient waives any and all claims and recourse against the grantee, including the right of contribution for loss or damage to persons or property arising

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from, growing out of or in any way connected with or incident to the subrecipient's performance of this contract except claims arising from the concurrent or sole negligence of the grantee or its officers, agents or employees. The subrecipient will indemnify, hold harmless and defend the grantee against any and all claims, demands, damages, costs, expenses or liability arising out of the subrecipient's performance of this contract except for liability arising out of the concurrent or sole negligence of the grantee or its officer's agents or employees.

VII. Suspension and Termination

The grantee may suspend or terminate this contract if the subrecipient materially fails to comply with any term of the grantee's MHPG contract with Commerce. In addition, the grantee may terminate this contract for convenience with reasonable notice.

This contract has been approved by the grantee and the subrecipient.

(Name of grantee)

_____ (Title)

Date: _____

_____ (Title)

Date: _____

_____ (Title)

Date: _____