

WARRANT
TOWN OF SOUTH BERWICK, MAINE
SPECIAL TOWN MEETING

State of Maine

County of York, ss.

TO: JOSEPH ROUSSELLE, a Resident of South Berwick in the County of York,
State of Maine.

GREETINGS: In the name of the Town of South Berwick, you are required to notify the inhabitants of said Town, qualified to vote in Town affairs, to assemble in the Town Council Chambers in the Town Hall at 180 Main Street in said Town on Tuesday July 12, 2011 at 6:30 p.m., then and there to act on the following articles:

ARTICLE 1. To elect a moderator to preside at said meeting.

ARTICLE 2. To see what sum the Town will vote to appropriate and expend from the Undesignated General Fund Balance to cover the unexpected overdraft in the Highway budget for 2010/11.

TOWN COUNCIL RECOMMENDS: \$80,000 from Undesignated General Fund.

ARTICLE 3. To see what sum the Town will vote to appropriate and expend from the Undesignated General Fund Balance to cover the unexpected overdraft in the Transfer Station budget for 2010/11.

TOWN COUNCIL RECOMMENDS: \$13,000 from Undesignated General Fund.

ARTICLE 4. To see if the Town will vote to adjourn the Special Town Meeting.

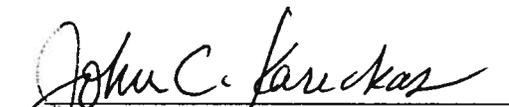
Given under our hands this 28th day of June 2011.


David Burke


Jean Demetracopoulos


Gerald W MacPherson Sr.


David H Webster


John Kareckas

South Berwick Town Council
June 28, 2011

Chairman David Burke called the meeting to order at 6:35pm. Councilors present included Gerald W. MacPherson, Sr., Jean Demetracopoulos, David H. Webster, and John C. Kareckas. Town Manager Perry Ellsworth was also in attendance.

Approval of Minutes

1. Council 6-13-11: On a motion by Mr. Kareckas, seconded by Mr. Webster, it was unanimously voted to adopt the minutes after amending them by changing the word "disparaging" to "discouraging" under Councilor Kareckas' comments on page 3. Mrs. Demetracopoulos abstained.

Treasurer's Warrant – June 28, 2011

On a motion by Mr. MacPherson, seconded by Mrs. Demetracopoulos, it was unanimously voted to sign the warrant in the amount of \$147,586.38.

Public Comment

1. Cliff Cleary, Spillane's Hill, asked if any consideration had been given to the offer of land by Malcolm Kenney for the communication tower. Mr. Ellsworth stated that the deal with the Water District had already been finalized at the time Mr. Kenney made his offer and the tower is currently being constructed.
2. Richard Clough, Academy St, recommended that if the Town doesn't need the excavator (sitting on Old Mill Rd unused for 8 days) it should be sold and the funds used to purchase the dump truck that is needed.
3. Ruth Boston, Emery's Bridge Rd, asked for the status of the Balancing Rock. Mr. Burke stated that nothing has changed.
4. Norma Tutelian, Butler St, questioned why tonight's Council workshop wasn't advertised. Mr. Ellsworth stated that the workshop notice was posted at Town Hall and on the website.
5. Virginia Jennings, Earls Rd, stated that the South Berwick Rod and Gun Club would be holding a program to introduce women to shooting sports on July 10th.

Reports & Correspondence

1. Roger Bouchard letter: see Council Comments.
2. Amy Miller letter: Mr. Burke read Ms. Miller's letter regarding Town Meeting. A copy is included in the official minutes book.

Town Manager's Report

- The pre-bid meeting for the library construction was held today. There were 14 participants. The bid opening will be held on July 18th and construction should begin on August 15th.
- The Rectory move is going well. Mr. Ellsworth explained that the cost of the move is being paid by Mr. Tarason, the purchaser.
- Currently in the process of trying to wrap-up everything for year-end on June 30th.

Unfinished Business

1. On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to sign the warrant calling the special town meeting on July 12, 2011 for fiscal year 2011 budget overruns.
2. The Council discussed how to draft the warrant for the special town meeting to be held on July 19th to revisit the LD1 override.

On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to sign the warrant as amended calling for the special town meeting on July 19, 2011 at 6:30pm by adding an additional article to rescind the vote from June 7th on article 21, Revenues, and revote Article 21 by including the use of \$100,000 of the undesignated fund. [The warrant will include 3 action articles: rescind/revote article 21, LD1 override for library construction bond payment, and LD1 override for all other 2012 budget items]

New Business

1. The Council unanimously approved the following transfers from the undesignated fund balance to cover 2011 budget overruns:

<u>Motion/2nd</u>	<u>Acct #</u>	<u>Dept</u>	<u>Amount</u>	<u>Reason</u>
JD/JK	4160	Code Enforcement	\$ 900	Vehicle Repairs
JD/JK	4180	Town Hall	\$ 2,700	Heating Oil
JD/JK	4185	Community Center	\$ 700	Electricity
JD/JK	4220	Fire	\$ 2,000	Vehicle Repair/Maintenance
JD/JK	4230	Police	\$ 9,000	Traffic Control Wages/ Equip Repair/Maintenance
GM/JK	4335	Solid Waste	\$ 4,000	Vehicle Repairs/Maint
GM/JD				Tolls, Phone
GM/JD	4470	Library	\$ 2,000	Oil, LP Gas at Young Street
GM/JD	4510	Social Services	\$ 6,000	Asst Grants
			\$27,300	

2. On a motion by Mr. Webster, seconded by Mr. Kareckas, it was unanimously voted to sign the Audit Engagement Letter for Smith and Associates. Note was made that it is a complete audit and the cost is approximately \$8000.

3. On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to affirm the slate of Municipal Officials for the 2012 fiscal year:

Perry A. Ellsworth	Town Manager, Tax Collector, Treasurer, Road Commissioner
Roberta L. Orsini	Assistant Town Manager
Barbara Bennett, CCM	Town Clerk, Registrar of Voters, Motor Vehicle Agent, IF&W Agent
Beverly J. Hasty	Deputy Tax Collector
Fern R. Houliars	Deputy Treasurer
Craig Skelton	Assessing Agent
Jon St. Pierre	Public Works Director
Joe Rousselle	Code Enforcement Officer, Plumbing Inspector, Health Officer
Jim Webster	Alternate CEO & LPI
Dana P. Lajoie	Police Chief, Constable
George E. Gorman	Fire Chief, Fire Warden
Blain Cote	Emergency Management Director
Mary-Margaret Ney	Library Director
Sharon R. Brassard	Recreation Director
Victoria J. Desilets	Social Services Director

A brief discussion ensued regarding the inclusion of the ACO and Planning Board Coordinator.

4. Mr. Webster made a motion to re-appoint the list of board and committee members through June 30, 2014 as presented. Mr. Kareckas seconded the motion. Mr. Kareckas made a motion to amend by changing Smilie Rogers from an alternate on the Board of Assessment Review to a regular voting member and changing John Klossner from an alternate on the Zoning Board of Appeals to a regular voting member. Mrs. Demetracopoulos seconded the amendment. The amendment and original motion as amended passed unanimously:

Board of Assessment Review
Smilie Rogers

Historic District Commission
George Muller

Building Committee
Mark Gagnon

Library Advisory Board
Elaine Pridham
Albert Whitaker, Jr.

Community Development
Virginia Jennings
Brian Kunkel

Planning Board
William Straub

Conservation Commission
John Klossner
Smilie Rogers

Zoning Board of Appeals
Peter Grace
John Klossner

5. On a motion by Mrs. Demetracopoulos, seconded by Mr. MacPherson, it was unanimously voted to hold a public hearing on Tuesday, August 9th at 6:30pm to receive comment on the proposed amendments to the Shoreland Zoning Ordinance as recommended by the MDEP.

Council Member Comments

1. Mr. Kareckas:

- Congratulated Brigadier General Carol Protzmann for her achievement and requested that a letter be sent to her recognizing her accomplishment.
- Commented that the Strawberry Festival went well in spite of the rain.
- Commented that the 'pot shots' being made against the Planning Board (being anti business) are unjustified. "They're doing their job".
- Commented that the budget process can be confusing but the long and short view must be balanced.

2. Mr. Webster:

- Stated that because of the hard work of volunteers, work is progressing at the Teen Center. Several thousand dollars have been saved because of the volunteers.

3. Mr. Demetracopoulos:

- Commented that Mr. Bouchard's letter regarding parking issues on Goodwin Street should be acknowledged and addressed. It was agreed that input from Fire, Rescue, PD, and Public Works should be sought and discussed.
- Thanked everyone for their kind thoughts and condolences (on the passing of her mother).
- The Town Manager performance evaluation is due. It was agreed to schedule a review, possibly in early August.
- Stated that she personally loves the Town Meeting format. She recommended that the Council draft an editorial letter for the newspaper to respond to the public's concerns. She also commented that the Town has flat funded the budget for the last several years; and we are not even keeping up with the rate of inflation.

4. Mr. Burke:

- Stated that Strawberry Festival was a great event and a wonderful day.
- Commented that one way or another, the budget will get done.

5. Mr. MacPherson:

- Commented that the Strawberry Festival has been held for 30+ years and the Masons have been holding their chicken barbeque for 40 years. He added that it has only been rained out 3 times.
- Made note of the CHIPS program provided by the Masonic Grand Lodge of Maine. The program is offered free of charge and provides parents with identification and voice recordings of their children if they are ever lost or missing.

Adjournment

On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to adjourn the meeting at 8:55pm.

Attested:

Barbara Bennett, CCM

TOWN OF SO. BERWICK
CHECK REGISTER

Check Number	Account	Date Paid	Amount
00028603	161330 PRIZES	06/30/2011	100.00
00028604	161330 PRIZES	06/30/2011	50.00
00028605	161330 PRIZES	06/30/2011	25.00
00028606	161330 PRIZES	06/30/2011	100.00
00028607	161330 PRIZES	06/30/2011	50.00
00028608	161330 PRIZES	06/30/2011	25.00
00028609	132500 SECRETARY OF STATE M/V	06/30/2011	10,586.69
00028610	133040 TREASURER, STATE OF MAINE	06/30/2011	200.00
00028611	011100 LOUISE ANDERSON	06/30/2011	10.20
00028612	011300 APPLE BOOKS	06/30/2011	797.41
00028613	011495 ATLANTIC RECYCLING EQUIP LLC	06/30/2011	250.30
00028614	020225 BAKER & TAYLOR	06/30/2011	359.57
00028615	022503 SHARON BRASSARD	06/30/2011	22.58
00028616	030510 CENTRAL MAINE POWER	06/30/2011	1,432.12
00028617	030725 CITIZENS BANK (CHG)	06/30/2011	244.00
00028618	031425 COLONIAL LIFE & ACCIDENT INS.	06/30/2011	1,674.12
00028619	031579 CONSTELLATION NEW ENERGY	06/30/2011	1,815.22
00028620	050802 PERRY ELLSWORTH	06/30/2011	408.34
00028621	050810 ANDREW ELWELL	06/30/2011	71.40
00028622	070200 P GAGNON & SON INC	06/30/2011	465.00
00028623	070565 GORHAM LEASING GROUP	06/30/2011	96.56
00028624	070600 GEORGE GORMAN	06/30/2011	123.07
00028625	191330 HANNAFORD'S	06/30/2011	141.82
00028626	080248 HANSCOM'S TRUCK STOP INC	06/30/2011	1,445.03
00028627	080440 HARTIGAN COMPANY	06/30/2011	7,380.80
00028628	080500 BEVERLY HASTY	06/30/2011	17.54
00028629	080998 HOME DEPOT	06/30/2011	125.35
00028630	081250 HOSPICE OF YORK	06/30/2011	60.00
00028631	081055 FERN HOULIARES	06/30/2011	172.13
00028632	081398 PAUL HUSSEY CORP INC	06/30/2011	85.00
00028633	100150 JANETOS MARKET	06/30/2011	101.40
00028634	100820 FRED KEEN	06/30/2011	75.00
00028635	141367 KONE INC	06/30/2011	229.35
00028636	120510 LAWSON PRODUCTS INC.	06/30/2011	168.25
00028637	120950 LHS ASSOCIATES INC	06/30/2011	119.95
00028638	122210 THE LUNCH BOX	06/30/2011	125.00
00028639	124618 KATHERINE A MACDONALD	06/30/2011	647.72
00028640	130626 MAINE OXY/SPEC AIR GASES	06/30/2011	108.95
00028641	133358 W.B.MASON	06/30/2011	13.98
00028642	134400 MAINE MUNICIPAL ASSOCIATION	06/30/2011	60.00
00028643	134601 EXXON/MOBIL	06/30/2011	529.82
00028644	134748 DENNIS MORIN BUILDING MOVER	06/30/2011	9,000.00
00028645	140105 NAPA OF SOMERSWORTH	06/30/2011	96.08
00028646	141077 THE NEW YORKER	06/30/2011	39.95
00028647	141080 NEXTEL	06/30/2011	247.51
00028648	141215 MAMIE ANTHOINE NEY	06/30/2011	60.94
00028649	141300 NO.BERWICK LUMBER & HARDWARE	06/30/2011	77.03
00028650	141365 NORTHEAST CREATIONS INC	06/30/2011	555.83
00028651	150035 MIKE O'BYRNE	06/30/2011	245.00
00028652	150280 ORIENTAL TRADING CO	06/30/2011	88.99
00028653	150282 ROBERTA ORSINI	06/30/2011	23.94
00028654	160235 KIMBERLY PERRY	06/30/2011	180.55
00028655	200700 PIKE INDUSTRIES INC	06/30/2011	124.20
00028656	161410 TIM PROTZMANN	06/30/2011	56.10
00028657	170000 QUILL CORPORATION	06/30/2011	50.89
00028658	180185 RCP LLC	06/30/2011	387.50

TOWN OF SO. BERWICK
CHECK REGISTER

Check Number	Account	Date Paid	Amount
00028674	011100 LOUISE ANDERSON	07/12/2011	5.98
00028675	022250 BOWL-A-RAMA	07/12/2011	648.00
00028676	022503 SHARON BRASSARD	07/12/2011	10.99
00028677	030510 CENTRAL MAINE POWER	07/12/2011	3,152.16
00028678	030725 CITIZENS BANK (CHG)	07/12/2011	1,876.38
00028679	031430 COMCAST	07/12/2011	99.95
00028680	040300 DEMCO	07/12/2011	130.72
00028681	050205 EASTERN TRAIL MGMT DISTRICT	07/12/2011	5,000.00
00028682	050815 EMPLOYEE HEALTH & BENEFITS	07/12/2011	806.52
00028683	060750 FIRE TECH & SAFETY	07/12/2011	78.00
00028684	061203 FOGARTY'S RESTAURANT	07/12/2011	9.98
00028685	061500 FOSTER'S DAILY DEMOCRAT	07/12/2011	151.20
00028686	070907 GRANITE STATE RACE SERVICES	07/12/2011	21.00
00028687	071180 GROUP DYNAMIC INC	07/12/2011	165.00
00028688	081340 HUB INT'L/HARTFORD INSURANCE	07/12/2011	392.50
00028689	100200 JEWETT/EASTMAN MEMORIAL COM	07/12/2011	263.00
00028690	100870 KENNEBUNK SAVINGS BANK	07/12/2011	1,134.67
00028691	127000 CORRINE J MAHONY	07/12/2011	1,500.00
00028692	132400 MAINE SAD #35	07/12/2011	510,943.27
00028693	134200 MAINE MUNICIPAL ASSO (INS)	07/12/2011	12,997.65
00028694	133194 MAINE TOWN/CITY MGMT ASSN	07/12/2011	137.50
00028695	140600 NEPTUNE INC	07/12/2011	47.95
00028696	141215 MAMIE ANTHOINE NEY	07/12/2011	58.63
00028697	141300 NO.BERWICK LUMBER & HARDWARE	07/12/2011	72.42
00028698	141400 NORTHERN DATA SYSTEMS INC	07/12/2011	375.00
00028699	159980 PATRIOT PROPERTIES INC	07/12/2011	6,900.00
00028700	180400 RED'S SHOE BARN INC	07/12/2011	71.10
00028701	022749 STATE TREASURER/MAINE REV	07/12/2011	908.26
00028702	190527 ANDREW SCHACHAT	07/12/2011	350.00
00028703	193640 STAPLES	07/12/2011	99.61
00028704	194300 SUNOCO/FLEET SERVICES	07/12/2011	104.87
00028705	200125 TASER INTERNATIONAL	07/12/2011	950.00
00028706	201300 TWO-WAY COMMUNICATION SERV INC	07/12/2011	5,910.00
00028707	220250 VIRTUAL TOWN HALL LLC	07/12/2011	5,450.00
00028708	230300 WALMART COMMUNITY BRC	07/12/2011	903.22
00028709	241102 YORK HOSPITAL	07/12/2011	300.00
Total Not Prepaid			562,025.53
Total Prepaid			.00
Grand Total			562,025.53

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: July 12, 2011	Item # NB 1
Agenda Item: Action on request from Seacoast Energy Initiative (SEI) request	
Item Information:	
<p>On October 26, 2009 the Council authorized the support of a regional grant application for energy projects including a revolving loan program. At that time, the Town of Kittery offered to be the lead community for the project. While the bulk of the groundwork is complete, Kittery is no longer able to continue as lead community. SEI and Efficiency Maine have contacted South Berwick to request we pick up the project where Kittery has left off.</p> <p>Much of the work necessary to implement the revolving loan program is complete. A website has been created and is ready to launch. The lending policies have been set by SEI. Goggin Company has been approved by the State as an authorized lender. What remains is the final step to sign contracts with Goggin Company for administration of the loan program, SMRPC for grant reporting and Efficiency Maine for the pass through of the grant funds. Providing the Council approves this request, the Town will receive three checks and write three checks. Beyond that activity, periodic oversight of program reporting has been suggested by the attorney.</p> <p>All expenses associated with the loan program are paid with the proceeds of the grant.</p> <p>Program Highlights: This program will allow residents in the region (Kittery, Eliot, York, South Berwick, Ogunquit and North Berwick) to apply for \$7,500 for energy improvements to their homes. The program will offer incentives to defray the cost of the energy audits and a regional outreach campaign is planned and ready to implement with the first step being the launch of the website.</p> <p>These funds can be piggy backed to a PACE loan. It is our understanding that residents of our community await this program's approval in order to begin their home energy improvements.</p> <p>All three contracts have been reviewed by the Town's Attorney, Robert Crawford. His suggested amendments have been made to the Goggin and SMRPC contracts.</p>	
Requested Action	
Motion to authorize the Town Manager to enter into contracts with Efficiency Maine, Goggin Company and SMRPC in order to complete the implementation of the regional energy grant.	
Vote	



Town of South Berwick

180 MAIN STREET
SOUTH BERWICK, MAINE 03908-1535
TEL. 207-384-3300
FAX: 207-384-3303

November 2, 2009

Jennifer Paul
Public Utilities Commission
State House Station 18
Augusta, ME 04333

Dear Jennifer:

Please consider this letter as endorsement and an agreement to participate in the development of a Seacoast Energy Initiative. We applaud the project goals, including the development of a training curriculum, the funding and implementation of a Revolving Loan Fund and the establishment of a regional advisory committee to establish a long term and sustainable plan to conduct energy efficiency projects throughout the region resulting in greenhouse gas reductions and substantial savings to homeowners and small businesses in southern York County.

On Monday October 26, 2009, the South Berwick Town Council voted to support this effort. The Council members were supportive of the collaborative nature of the proposal, the energy behind it and the long term ability to provide energy savings and environmental benefits to their residents. We see this as an important part of our local efforts for a sustainable energy future.

We look forward to the funding of this effort and we also look forward to working with the surrounding communities on this important project.

Thank you for your consideration.

Sincerely,

John B. Schempf
Town Manager

On behalf of the South Berwick Town Council

cc: Efficiency Maine
South Berwick Energy Efficiency Advisory Committee

EFFICIENCY MAINE TRUST

**ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT (EECBG) PROGRAM AGREEMENT
American Recovery and Reinvestment Act (ARRA)**

THIS AGREEMENT is made by and between Efficiency Maine Trust, an independent agency of the State of Maine, ("Trust") and the Town of South Berwick a governmental entity and political subdivision of the State of Maine, with its principal office located at 180 Main Street, South Berwick, ME 03908, ("Grantee").

WHEREAS, the State of Maine is a Recipient of certain federal stimulus funds under the American Recovery and Reinvestment Act of 2009 (ARRA) through the United States Department of Energy (USDOE) intended to assist municipalities, counties and Indian tribes to develop, implement and manage energy efficiency and conservation programs designed to reduce fossil fuel emissions, reduce energy use, improve energy efficiency in transportation, building, and other appropriate sectors, and create and retain jobs (the "EECBG Program");

WHEREAS, the Trust administers the EECBG Program;

WHEREAS, Grantee has submitted an application for funding of a certain project under the EECBG Program (the "Application"), which project is described in the Statement of Work, Specifications and Project Description in Rider A (the "Project");

WHEREAS, the Trust, in reliance upon Grantee's representations contained in the Application and Grantee's covenants and commitments contained in this Agreement, has decided to make an award to Grantee under the EECBG Program funded in whole or in part with ARRA funds (the "Grant Award").

NOW, THEREFORE, for valuable consideration received or to be received, including but not limited to the performance by the Trust and the Grantee (the "Parties") of their respective obligations under this Agreement, the Parties hereby agree as follows.

1. GRANT AWARD; TERM AND FUNDING DISBURSEMENTS.

1.1 Relying upon Grantee's representations in its Application and Grantee's compliance with all terms and conditions of this Agreement, the Trust will provide Grantee a Grant Award of \$500,000 for the Project.

1.2 This Agreement shall commence on July 12th, 2011 and shall terminate on October 1, 2012 (the "Term"), unless earlier terminated in accordance with the provisions of this Agreement. Grantee shall complete the Project within the Term. All provisions relating to document retention and review, audit, accounting, reporting, indemnity and remedies shall survive expiration or termination of this Agreement.

1.3 The Grant Award shall be disbursed to Grantee by the Trust in accordance with the Payment Schedule and Project Milestones set forth in Rider B. The Trust's obligations to make payments or disbursements to Grantee is conditioned on the following:

- (i) Designated funds remain available for the Project;
- (ii) Grantee is not in breach of any of the terms or conditions of this Agreement;
- (iii) Grantee has submitted properly documented reimbursement requests and invoices;
- (iv) Grantee has produced or provided all necessary documents and reports as may be required by this Agreement or requested by the Trust to support compliance with ARRA requirements;
- (v) The implementation of the Project is fully in accordance with the Statement of Work, Specifications and Project Description.

1.4 The Trust will not reimburse Grantee for any cost or expense that is contrary to this Agreement or any restriction or limitation contained in any applicable law, rule, regulation or policy.

1.5 By submitting any invoice or request for reimbursement, Grantee is representing that the services or costs identified in the invoice or request for reimbursement are within the approved Statement of Work, Specifications and

Project Description in Rider A and Payment Schedule and Project Milestones in Rider B, and that such costs and expenses are allowable, allocable, and reasonable in accordance with this Agreement and all applicable laws, rules, regulations, and policies.

1.6 Grantee shall expend Grant Award funds only for Project purposes and only in accordance with the terms and conditions of this Agreement. Grantee shall not expend Grant Award funds for any purpose not expressly authorized in this Agreement or by subsequent written authorization from the Trust.

1.7 Any expenditure or obligation to expend funds intended to benefit the Project by Grantee prior to the effective date of this Agreement is at Grantee's risk. The Trust may, in its sole discretion, decline to approve such expenditures or obligations for reimbursement under the Grant Award unless they are in strict accordance with the terms and conditions of this Agreement.

1.8 The Trust shall not disburse any Grant Award amounts following written notice by the Trust to Grantee of Suspension or following written notice of an Event of Default as set forth in this Agreement.

1.9 By paying all or a portion of any invoice or request for reimbursement, the Trust does not waive its ability to challenge any reimbursement for failing to comply with this Agreement.

1.10 Grantee acknowledges that funding of the Grant Award is provided, in whole or in part, from federal stimulus funds pursuant to the American Recovery and Reinvestment Act of 2009. ARRA Grant Award funds must be used in compliance with ARRA requirements and all regulations relating thereto. Grantee and its subcontractors may be subject to audit by state and/or federal authorities. Grantee agrees that if it or one of its subcontractors fails to comply with applicable state and federal requirements governing use of ARRA funds, the Trust may withhold or suspend, in whole or in part, the Grant Award funds or recover misspent funds following an audit. The Trust has the right to cancel, suspend, or terminate this Agreement if Grantee or its subcontractors fails to comply with the terms and conditions of this Agreement or applicable law. This provision is in addition to other remedies available to the Trust under state and federal law.

1.11 Grantee acknowledges that ARRA Grant Award funds are limited and temporary and that programs supported by such funding will not be continued through State of Maine financial appropriations when the ARRA funds are expended.

2. STANDARDS OF PERFORMANCE.

2.1 Grantee and its subcontractors shall perform all work and services in connection with the Project in a timely, professional, and workmanlike manner. Grantee and its subcontractors shall perform all work and services in accordance with the Statement of Work, Specifications and Project Description.

2.2 Grantee shall provide and maintain competent and adequate supervision of the Project to ensure that all work and services conform to the Statement of Work, Specifications and Project Description.

2.3 Grantee shall furnish or arrange for all qualified personnel, facilities, equipment, materials, and services as necessary for the performance of the Project. Grantee shall maintain a Project schedule to ensure completion within the Term of this Agreement. Timely performance of the Project is an essential condition of this Agreement.

2.4 Grantee shall, and shall ensure that its subcontractors, conform to applicable state, federal, and local laws, ordinances, rules, regulations, and standards in the performance of this Agreement and execution of the Project.

2.5 Grantee shall keep the Trust apprised of all material developments in connection with the Project and shall consult and coordinate with the Trust, through its Agreement Administrator, as necessary in the performance of the Project. The Trust reserves the right to monitor Grantee's performance of this Agreement, including the performance of any subcontractor, in order to verify compliance.

3. GRANTEE REPRESENTATIONS AND RESPONSIBILITIES.

3.1 Grantee shall abide by the General Terms and Conditions of this Agreement set forth in Rider C, which General Terms and Conditions are expressly incorporated in and made part of this Agreement.

3.2 Grantee shall abide by the ARRA Special Terms and Conditions of this Agreement set forth in Rider D, which Special Terms and Conditions are expressly incorporated in and made part of this Agreement.

3.3 Grantee shall incorporate the Subcontractor Flow Down Requirements Under the American Recovery and Reinvestment Act set forth in Rider E in any subcontract in connection with the Project in which ARRA funds are utilized. The pass through contractual provisions set forth in Rider E are minimum requirements. Grantee is solely responsible for ensuring that any subcontract in connection with the Project contains all pass through or flow down provisions as may be required under applicable laws, rules, and regulations.

3.4 All requirements, restrictions and obligations regarding the use of ARRA awards and other federal funds are deemed incorporated in this Agreement to the extent necessary to ensure compliance with applicable law. Grantee agrees to comply with all such requirements, restrictions and obligations and shall cause its subcontractors to comply with all such requirements, restrictions and obligations.

3.5 Grantee represents that it has all requisite power and authority to execute this Agreement and perform the Project and that the execution and delivery of this Agreement and the performance of the Project have been duly authorized by all necessary action of its governing body, as appropriate.

3.6 Grantee represents that it is eligible to receive the Grant Award and that it is not suspended, debarred or disqualified from receiving state or federal contracts, grants or other appropriations.

3.7 Grantee represents that it has complied in good faith with the application and eligibility requirements under the EECBG Program.

3.8 Grantee has disclosed any relationship, direct or indirect, between Grantee, its officers, administrators, commissioners, directors, managers, or employees, and the Trust, State or USDOE that could reasonably give rise to a conflict of interest.

3.9 There has been no material adverse change in the operations or financial condition of Grantee, or in the matters described in the Application pertaining to the Project, since the submission of the Application. Neither this Agreement, the Application, nor any document, report, or certification given by Grantee in connection with this Agreement or the Project contains any untrue statement of material fact or any knowing omission of material fact.

3.10 Grantee shall execute any disclosures, certifications and statements of compliance as may be required under state or federal law or regulation, or as may be reasonably requested by the Trust in order to ensure compliance with the requirements of the ARRA.

4. SUSPENSION OF GRANT AWARD.

- 4.1 The Trust may suspend Grant Award disbursements and payments to Grantee for any of the following reasons:
- (i) Grantee's failure to comply with the terms and conditions of this Agreement, including any representation or covenant contained herein;
 - (ii) Grantee's failure to execute the Project in good faith and with due diligence, or to achieve an agreed Project milestone; or
 - (iii) A material change in Grantee's legal, business, or financial status.

4.2 The Trust shall provide Grantee with written notice of its decision to suspend Grant Award disbursements and payments under this provision and shall provide Grantee with an explanation of the reasons therefor. The Trust shall specify the remedial actions that the Grantee must complete to successfully secure reinstatement of the Grant Award and shall allow the Grantee up to thirty (30) days to cure the underlying cause for suspension.

5. TERMINATION OF AGREEMENT.

5.1 The Trust may declare Grantee to be in default of this Agreement upon the occurrence of any of the following Events of Default:

- (i) Grantee's material breach of any covenant, condition, or obligation under this Agreement;
- (ii) Grantee's violation of law;
- (iii) Grantee's failure to make regular and substantial progress toward the performance and completion of the Project;
- (iv) Grantee's failure to provide any periodic or final reporting or accounting as required under this Agreement or applicable law, rule, or regulation;
- (v) Grantee's misuse or misapplication of the Grant Award; or
- (vi) Any event of default identified elsewhere in this Agreement.

5.2 Without prejudice to any other rights or remedies, the Trust may terminate this Agreement upon any Event of Default by providing Grantee with thirty (30) days written notice of the Trust's intent to terminate, and the grounds therefor. Termination shall occur if any Event of Default remains fully or partially uncured thirty (30) days after the Trust has provided Grantee with the written notice of intent to terminate. The Trust shall have no further obligation to Grantee after termination.

5.3 Notwithstanding anything to the contrary in this Agreement, the Trust may terminate this Agreement without penalty by giving thirty (30) days' notice to Grantee in the event that funds are de-appropriated or not allocated (whether for a specific project or program or for the Trust generally), the federal government reduces or eliminates ARRA grant funding, the Trust's authorization to operate or administer the Agreement or the program or project is withdrawn or curtailed, there is a material change in legislation affecting the Trust's duties or operations, or for any other reason that the Trust determines is in the best interest of the State. In such event, the Agreement shall be equitably adjusted to account for such termination and Grantee shall be paid for all satisfactory work performed and expenses incurred within thirty (30) days after such notice of termination (as directed by the Trust or with written approval of the Trust), but in no event in excess of the maximum payable under this Agreement.

5.4 The Trust reserves all rights and remedies available at law or in equity in the event of a breach of this Agreement by Grantee including, without limitation, recovery of all Grant Award funds disbursed under this Agreement. The various rights, remedies, options and elections of the Trust in this Agreement are cumulative and not exclusive of any other right, remedy, or power allowed or available at law or in equity.

6. MISCELLANEOUS PROVISIONS.

6.1 This Agreement shall be governed in all respects by the laws, statutes, and regulations of the United States of America and the State of Maine. Any legal proceeding instituted by the Trust or Grantee regarding this Agreement shall be brought in State of Maine administrative or judicial forums.

6.2 This Agreement is funded with federal stimulus awards pursuant to the ARRA and is governed by the requirements of the ARRA and rules and regulations issued in connection therewith. If the ARRA requirements conflict with any term of this Agreement or State of Maine requirements, the ARRA requirements control. All terms of this Agreement are to be interpreted in such a way as to be consistent at all times with the other terms of this Agreement to the extent possible. The invalidity or unenforceability of any particular provision or part thereof of this Agreement shall not affect the remainder of said provision or any other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

6.3 This Agreement, along with the Riders and other provisions expressly incorporated herein, contains the entire Agreement of the Parties, and neither party shall be bound by any statement or representation not contained herein or in a written amendment or change order signed by the Trust. No waiver shall be deemed to have been made by any of the Parties unless expressed in writing and signed by the waiving party. The Parties expressly agree that they shall not assert in any action relating to the Agreement that any implied waiver occurred between the Parties which is not expressed in writing. The failure of any Party to insist in any one or more instances upon strict performance of any of the terms or provisions of the Agreement, or to exercise an option or election under the Agreement, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue in full force and effect, and no waiver by any Party of any one or more of its rights or remedies under the Agreement shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Agreement or at law.

6.4 The following Riders are attached to and made part of this Agreement:

- Rider A – Statement of Work, Specifications and Project Description
- Rider B – Payment Schedule and Project Milestones
- Rider C – General Terms and Conditions and Maine Requirements
- Rider D – ARRA Special Terms and Conditions and Federal Requirements
- Rider E – Subcontractor Flow Down Requirements Under the ARRA
- Rider F – [Reserved]

6.5 All progress reports, correspondence and related submissions from the Grantee shall be submitted to:

Name: Dana Fischer
 Title: Residential Program Manager
 Address: 151 Capitol Street, Suite 1, Augusta, ME 04330-6262

This individual is designated as the Agreement Administrator on behalf of the Trust for this Agreement, except where specified otherwise in this Agreement or as replaced by the Executive Director of the Trust. The Agreement Administrator shall be the Trust's representative during the Term of this Agreement. He/she has authority to curtail services if necessary to ensure proper execution and compliance. He/she shall certify to the Trust when payments under the Agreement are due and the amounts to be paid. He/she shall make decisions on all claims of the Grantee, subject to the approval of the Executive Director of the Trust.

IN WITNESS WHEREOF, the Trust and Grantee, by their authorized representatives, have executed this Agreement in 3 original copies.

Notwithstanding anything to the contrary herein, this Agreement shall not be binding on the Trust until approved by the Executive Director of the Trust.

EFFICIENCY MAINE TRUST

By: _____
 Michael Stoddard, Executive Director
 Date: _____

TOWN OF SOUTH BERWICK

By: _____
 Perry A. Ellsworth, Town Manager
 Date: _____

Contract #:	20110701*0265		
Name of Awarding Federal Agency:	US Department of Energy	Award Name:	EECBG
Federal Award #:	DE0000746	CFDA #:	81.1128
DUNS #:	140443263	CCR Validity Date:	1/19/2012

RIDER A

STATEMENT OF WORK, SPECIFICATIONS AND PROJECT DESCRIPTION

The work to be performed under this Agreement to Purchase Services is the work set forth in the original grant application originally submitted November 4, 2009 by the Town of Kittery on behalf of residents from all "KEYS" communities with the additional following specifications:

For the residents of the "KEYS" Community (Kittery, Elliot, York, South Berwick, North Berwick and Ogunquit):

1. Plan and execute a residential weatherization outreach and marketing campaign;
2. Offer audit incentives to defray the cost of Efficiency Maine Home Energy Savings Program audits for residents;
3. Establish and administer Seacoast Energy Initiative Revolving Loan Fund low-interest-rate, variable-term loans to homeowners who improve the energy efficiency of their homes as a result of an Efficiency Maine Home Energy Savings Program audit.

CHANGES TO THE PROJECT

The Provider will seek prior approval before undertaking any significant changes to the planning or implementation of tasks as set forth in the Application. Modifications to the tasks described or referred to in this Agreement may be implemented by written agreement between Provider and Trust.

REPORTING REQUIREMENTS

The federal and state governments are applying extensive reporting requirements to this agreement. The Provider agrees to report all information legally required or reasonably requested, in the form and manner determined by the Trust and the Trust will collaborate with the Provider to ensure all requirements are met.

RIDER BPAYMENT SCHEDULE AND PROJECT MILESTONES

Federal Award No. DE0000746
CFDA No. 81.1128

AMERICAN RECOVERY AND REINVESTMENT ACT FUNDING MATRIX

a.	State General Funds	\$ _____
b.	Federal Funds	\$ _____
c.	Federal ARRA Stimulus Funds	<u>\$500,000</u>
d.	Other funds	\$ _____
	Agreement Total	<u>\$500,000</u>

PROJECT MILESTONES

1. Submission of Plan and execute a residential weatherization outreach and marketing campaign;
2. Documentation of incentives paid to defray the cost of Efficiency Maine Home Energy Savings Program audits for residents;
3. Establishment and administration of the Seacoast Energy Initiative Revolving Loan Fund low-interest-rate, variable-term loans to homeowners who improve the energy efficiency of their homes as a result of an Efficiency Maine Home Energy Savings Program audit. Reporting on activity and performance.

INVOICES AND PAYMENTS The Trust will disburse the Grant Award to Grantee as follows:

1. \$200,000 (40%) after contract signing and submission of invoice for initial disbursement.
2. \$150,000 (30%) after 1st \$100k of loans issued or demonstrated utilization of funds toward milestones 1 and 2.
3. \$140,000 (20%) after 2nd \$100k of loans issued or demonstrated utilization of funds toward milestones 1 and 2.
4. \$10,000 (10%) acceptance of milestone progress report prior to contract end date.

Invoices must be submitted on approved forms and must contain sufficient detail to allow proper cost allocation. Invoices must be accompanied by supporting documentation. Invoices must reference the grant award number and contractor or vendor registration number.

Payments are subject to the Grantee's compliance with all terms set forth in this Agreement and subject to the availability of funds. No invoice will be processed for payment until approved by the Agreement Administrator. The Trust will process approved payments within 30 days. The Trust is not responsible for any direct payments to Grantee's subcontractors or vendors.

All payments are subject to reimbursement by Grantee in the event of a breach of the Agreement.

RIDER CGENERAL TERMS AND CONDITIONS AND MAINE REQUIREMENTS

1. INDEPENDENT CAPACITY. In the performance of this Agreement, the Parties hereto acknowledge that Grantee, and any subcontractors, agents and employees of Grantee, shall act in the capacity of an independent contractor and not as officers, employees or agents of the Trust or the State. Grantee shall be solely responsible for all taxes resulting from the payments made under the Agreement. Grantee shall be solely responsible for the payment of wages and benefits to its employees and the payment of contract and service fees to its subcontractors. Grantee shall be solely responsible for all income and employment tax obligations as to Grantee's employees and agents. Grantee shall be responsible for the performance and conduct of its subcontractors, agents, and employees in connection with the Project.
2. CHANGES IN THE WORK. The Trust may order changes in the work, the Agreement amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment, signed by both parties and approved by the Director of the Trust. Said amendment must be effective prior to execution of the work.
3. SUBCONTRACTING AND ASSIGNMENT. Grantee shall not assign or otherwise transfer or dispose of its rights, interest, duties or obligations under this Agreement without the prior express written consent of the Trust. Grantee shall not subcontract, or make a sub-grant for, all or any portion of the work to be performed under this Agreement without the prior express written consent of the Trust. The consent of the Trust to any assignment or subcontract or sub-grant shall not relieve Grantee of its responsibility for performance of the work and compliance with the Agreement. All subcontractors shall be bound by the terms and conditions of the Agreement. Grantee shall be responsible for the compliance and performance of its subcontractors in accordance with the requirements of the Agreement. Grantee is solely responsible for ensuring that any subcontract in connection with the Project contains all pass through or flow down provisions as may be required under applicable laws, rules, and regulations.
4. EQUAL EMPLOYMENT OPPORTUNITY.
 - a. Grantee shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a bona fide occupational qualification. Grantee shall take affirmative action to ensure that applicants are employed and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation. Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Grantee agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.
 - b. Grantee shall, in all solicitations or advertising for employees placed by or on behalf of Grantee relating to this Agreement, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.
 - c. Grantee shall send to each labor union or representative of the workers with which it has a collective bargaining agreement, or other agreement or understanding, whereby it is furnished with labor for the performance of this Agreement a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Grantee's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - d. The Grantee shall inform the Trust of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, and Office of Civil Rights) against it by any individual as well as any lawsuit regarding alleged discriminatory practice.

- e. The Grantee shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of service to include accessibility and reasonable accommodations for employees and clients.
 - f. Contractors and subcontractors with contracts in excess of \$50,000 shall also pursue in good faith affirmative action programs.
 - g. The Grantee shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
5. EMPLOYMENT AND PERSONNEL. Grantee shall not engage any person in the employ of the Trust or any State department or agency in a position that would constitute a violation of 5 MRSA § 18-A (Conflicts of Interest in Contracts with State) or 17 MRSA § 3104 (Conflicts of Interest in State Purchases). Grantee shall not engage on a full-time, part-time or other basis during the Term of this Agreement, any other personnel who are or have been at any time during the Term of this Agreement in the employ of the Trust or any State department or agency, except regularly retired employees, without the written consent of the Executive Director of the Trust. Grantee shall not engage on this Project on a full-time, part-time or other basis during the Term of this Agreement any retired employee of the Trust who has not been retired for at least one year, without the written consent of the Executive Director of the Trust. Grantee shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
6. STATE EMPLOYEES NOT TO BENEFIT. No individual employed by the State at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise there from directly or indirectly that would constitute a violation of 5 MRSA § 18-A or 17 MRSA § 3104. No other individual employed by the State at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise there from directly or indirectly due to his or her employment by or financial interest in Grantee or any affiliate of Grantee, without the written consent of the Executive Director of the Trust. Grantee shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
7. NO SOLICITATION WARRANTY. Grantee warrants that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Agreement and that it has not paid, or agreed to pay, any company or person, other than a bona fide employee working solely for Grantee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Agreement. For breach or violation of this warranty, the Trust shall have the right to annul this Agreement without liability or, in its discretion to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.
8. RECORD RETENTION AND INSPECTION; SITE VISITS. Grantee shall retain during the Term of this Agreement and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies ("MAAP") rules all records, in whatever form, that directly pertain to, and involve the work to be performed under this Agreement. Grantee shall permit the Trust or any authorized representative of the State of Maine, (a) to examine such records; and (b) to interview any officer or employee of Grantee or any of its subcontractors or sub-grantees regarding the work performed under this Agreement. Grantee shall furnish copies of such records upon request. The Trust's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems. Grantee must provide, and must require its subcontractors to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the Trust's representatives in the performance of their duties. All site visits and evaluations will be performed in a manner that does not unduly interfere with or delay the work.

Grantee shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor.

9. ACCESS TO PUBLIC RECORDS. As a condition of accepting any public funds under this Agreement, Grantee hereby agrees to treat all records, other than proprietary information, relating to personal services work performed under the Agreement as public records under the freedom of access laws to the same extent as if the work were performed directly by the Trust. For the purposes of this subsection, "proprietary information" means information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of Grantee and would make available information not otherwise publicly available. Information relating to wages and benefits of the employees performing the personal services work under the contract and information concerning employee and contract oversight and accountability procedures and systems are not proprietary information. Grantee shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Agreement and make such materials available at its offices at all reasonable times during the period of this Agreement and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Grantee shall allow inspection of pertinent documents by the Trust or any authorized representative of the State of Maine, and shall furnish copies thereof, if requested.
10. GOVERNMENTAL REQUIREMENTS. Grantee warrants and represents that it will comply with all governmental laws, rules, regulations and ordinances. Grantee is responsible to obtain and maintain all permits, licenses, and other approvals as may be required under federal, state, or local laws for the performance of any work or services under this Agreement.
11. STATE HELD HARMLESS. Grantee agrees to indemnify, defend and save harmless the State, its officers, agents and employees, including, without limitation, the Trust and its trustees, officers, directors, agents and employees, from any and all claims, costs, fees, expenses (including attorney fees and legal expenses), injuries, liabilities, losses and damages of every kind and description (hereinafter in this paragraph referred to as "Claims") resulting from or arising out of the performance of this Agreement by Grantee, its employees, agents, or subcontractors. Claims to which this indemnification applies include, without limitation, the following: (i) Claims suffered or incurred by any contractor, subcontractor, materialman, laborer and any other person, firm, corporation or other legal entity (hereinafter in this paragraph referred to as "person") providing work, services, materials, equipment or supplies in connection with the performance of this Agreement; (ii) Claims arising out of a violation or infringement of any proprietary right, copyright, trademark, right of privacy or other right arising out of publication, translation, development, reproduction, delivery, use, or disposition of any data, information or other matter furnished or used in connection with this Agreement; (iii) Claims arising out of a libelous or other unlawful matter used or developed in connection with this Agreement; (iv) Claims suffered or incurred by any person who may be otherwise injured or damaged in the performance of this Agreement, including Grantee's employees, agents, and subcontractors; and (v) all legal costs and other expenses of defense against any asserted Claims to which this indemnification applies. Grantee's indemnity obligations apply without regard to any immunity that might otherwise be accorded under the workers' compensation laws. This indemnification does not extend to a claim that results solely and directly from (i) the Trust's gross negligence or unlawful act, or (ii) action by the Grantee taken in reasonable reliance upon an instruction or direction given in writing by an authorized person acting on behalf of the Trust in accordance with this Agreement.
Nothing in this Agreement is intended, or shall be construed, to constitute a waiver of any defense, immunity or limitation of liability that may be available to Grantee as a governmental entity, or any of its officers, agents or employees, pursuant to the Eleventh Amendment to the Constitution of the United States of America, the Maine Constitution, the Maine Tort Claims Act (14 M.R.S.A. § 8101 *et seq.*), any state or federal statute, the common law or any privileges or immunities as may be provided by law.
12. NOTICE OF CLAIMS. Grantee shall give the Agreement Administrator immediate notice in writing of any legal action or suit filed related in any way to the Agreement or which may affect the performance of duties under the Agreement, and prompt notice of any claim made against the Grantee by any subcontractor which may result in litigation related in any way to the Agreement or which may affect the performance of duties under the Agreement. Grantee shall indemnify and hold the Trust harmless from and against any such Claims.
13. APPROVAL. This Agreement must have the approval of the Executive Director of the Trust before it can be considered a valid, enforceable document.

14. **INSURANCE.** For the purpose of protecting against any third-party claim for which Grantee would not enjoy immunity under the Maine Tort Claims Act or similar law, Grantee shall keep in force a commercial general liability insurance policy issued by a company fully licensed to do business in the State of Maine, which policy includes the activity to be covered by this Agreement with adequate liability coverage to protect itself and the Trust from suits. Grantee shall maintain workers compensation insurance as required by law. Prior to or upon execution of this Agreement, Grantee shall furnish the Trust with a certificate of insurance or other written verification of the existence of such liability insurance policies. Grantee shall require that its subcontractors maintain adequate commercial general liability coverage and workers' compensation insurance in connection with all work or services performed in connection with this Agreement.
15. **NON-APPROPRIATION.** Notwithstanding any other provision of this Agreement, if the Trust does not receive sufficient appropriations to fund this Agreement and other obligations of the Trust, if funds are de-appropriated, or if the Trust does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, or if there is a restriction on use or disbursement of federal funds allocated to this Agreement, then the Trust is not obligated to make payment under this Agreement.
16. **FORCE MAJEURE.** The Trust may, at its discretion, excuse the performance of an obligation by a Party under this Agreement in the event that performance of that obligation by that Party is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that Party. The Trust may, at its discretion, extend the time period for performance of the obligation excused under this section by the period of the excused delay together with a reasonable period to reinstate compliance with the terms of this Agreement.
17. **SET-OFF RIGHTS.** Without limiting any other right or remedy, the Trust and the State shall have all common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the Trust's option to withhold for the purposes of set-off any monies due to Grantee under this Agreement up to any amounts due and owing to the Trust with regard to this Agreement, or any other Agreement with any State agency, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The Trust and the State shall exercise set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.
18. **NO THIRD-PARTY BENEFICIARIES.** There are no express or intended third-party beneficiaries. No person or entity that is not a party to this Agreement may assert any right or make any claim under this Agreement.
19. **EFFICIENCY MAINE LOGO.** Grantee may use the Efficiency Maine logo in connection with the Project upon the written consent of the Trust. Any such use must be in strict accordance with the Trust's design, image, and placement standards. The Trust reserves the right to require Grantee and its subcontractors to publicly acknowledge the Trust's funding and participation in the Project.
20. **NOTICES.** All notices under the Agreement shall be deemed to have been duly given and delivered: (i) upon delivery, if delivered by hand, (ii) three (3) business days following posting, if sent by registered or certified mail, return receipt requested, or (iii) one (1) business day after dispatch if sent overnight or next day delivery by national courier service, such as FedEx or UPS, with tracking receipt.

RIDER D**ARRA SPECIAL TERMS AND CONDITIONS AND FEDERAL REQUIREMENTS**

Funding for the Grant Award derives from federal stimulus funds under the American Recovery and Reinvestment Act ("ARRA"), which funds are administered through the United States Department of Energy ("USDOE"). As a sub-recipient of ARRA funds, Grantee is subject to the requirements and restrictions on use of ARRA funds as set forth in the ARRA, USDOE Financial Assistance Regulations, OMB circulars and guidelines, and other applicable federal regulations.

A. FEDERAL FINANCIAL ASSISTANCE RULES AND OMB CIRCULARS

Pursuant to 10 CFR 600.2(b) of the USDOE Financial Assistance Rules, any new, continuation, or renewal award (and any subsequent subaward) of ARRA funds shall comply with any applicable federal statute, federal rule, Office of Management and Budget (OMB) Circular and government guidance in effect as of the date of the award. As such, and as a condition of the award, the OMB Circulars, federal regulations, and guidelines set forth below are made part of the Agreement to the extent applicable to the Grantee entity. OMB Circulars may be accessed on the OMB web site at www.whitehouse.gov/omb/circulars/index.html. Federal regulations may be accessed at <http://ecfr.gpoaccess.gov>.

Title 10 Code of Federal Regulations (CFR) Part 600: Department of Energy Financial Assistance Regulations.

OMB Circular A-102: Common Rule for Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

OMB Circular A-110: Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (also applicable to private entities).

OMB Circular A-87: Cost Principles for State, Local and Tribal Governments.

OMB Circular A-21: Cost Principles for Educational Institutions.

OMB Circular A-122: Cost Principles Applicable to Grants, Contracts, and Other Agreements with Non-Profit Organizations (non-profit organizations and individuals, except for those specifically exempted).

OMB Circular A-133: Audits of States, Local Governments, and Non-Profit Organizations.

B. SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER ARRA

1. **ARRA-FUNDED PROJECT; ENFORCEABILITY.** Grantee understands that funding for this Project is from the ARRA. Grantee agrees to abide by all reporting and operational requirements governing the use of ARRA funds. If Grantee or one of its subcontractors fails to comply with these Special Terms and Conditions and all applicable federal and state requirements governing the use of ARRA funds, the Trust may take appropriate action, including but not limited to withholding or suspension, in whole or in part, of funds awarded under the program, or recovery of misspent funds following an audit. This provision is in addition to all other remedies available to the Trust under all applicable state and federal laws. The Trust has the right to cancel or terminate the Agreement if Grantee or its subcontractors fails to comply with the operational or reporting requirements contained herein.
2. **PROHIBITIONS ON USE OF FUNDS.** Pursuant to ARRA Section 1604, none of the funds provided under the Agreement derived from the ARRA may be used for or in relation to: casinos or other gambling establishments, aquariums, zoos, golf courses, or swimming pools.
3. **REGISTRATION AND REPORTING REQUIREMENTS.** The award of funds under the Agreement requires the Trust to report on use of ARRA funds provided through the award. Information from these reports will be made available to the public. Grantee agrees to cooperate with the Trust on ARRA reporting and shall report the information described in ARRA Section 1512(c) and other information reasonably requested and required by the

Trust to meet its obligation to provide accurate, complete, and timely information to the public; to meet the federal program reporting requirements; and/or to comply with state or federal law or regulation.

- a. The Grantee may be required to provide information including, but not limited to, the following: direct jobs created by the Grantee, expressed as “full-time equivalent” (FTE), calculated cumulatively as hours worked divided by the total number of hours in a full time schedule, and as captured on the Section 1512 reporting spreadsheet; a narrative description of jobs created and retained by the Grantee; the number of jobs created and retained by each subcontractor; payroll and project records to substantiate job creation estimates; if applicable, names and total compensation of five most highly compensated officers for the calendar year in which award funds were received by the Grantee; information about vendors for purchases of \$25,000 or more such as a description of the product and/or service and the amount invoiced from the vendor that will be paid with ARRA funds; narrative descriptions and comparisons of accomplishments with goals and objectives and, if applicable, reasons why goals were not met; cost and schedule status reports; descriptions of actual or anticipated problems or delays and plans to resolve them; a description of any product produced or technology transfer accomplished such as publications, websites that reflect project results, and inventions/patent applications; and performance metrics such as energy saved, renewable energy installed capacity and generated, green house gas (GHG) emissions reduced, and energy cost savings.
 - b. In order to facilitate such reporting, Grantee must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active federal awards funded with ARRA funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.
4. ACCESS TO RECORDS. In accordance with ARRA Sections 902, 1514, and 1515, Grantee shall permit the Trust and any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the United States Comptroller General to: (1) examine any records of the Grantee or any of its subcontractors or any agency administering the Agreement that pertain to, and involve transactions that relate to, the Agreement and any subcontract, grant, or subgrant; and (2) interview any officer or employee of the Grantee or any of its subcontractors regarding such transactions.
5. SEGREGATION OF FUNDS; RECORD RETENTION. The Grantee shall segregate revenues, obligations, and expenditures of ARRA funds from other funding. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of funds available under ARRA may be commingled in accounting records with any other funds or used for a purpose other than that of making payment for costs allowable under ARRA and the Agreement. Pursuant to 10 C.F.R. § 600.242, records must be maintained for at least three (3) years after the expiration of the federal grant term, unless the Trust or USDOE requests a longer retention period.
6. INFORMATION IN SUPPORT OF THE RECOVERY ACT. Grantee may be required to submit backup documentation for expenditures of funds under the ARRA including such items as timecards and invoices. Grantee shall maintain records and provide copies of backup documentation at the request of the Trust or USDOE designee.
7. TRACKING EXPENDITURES AND AUDIT REQUIREMENTS. Grantee may be subject to a pre-award audit, monitoring during the term of this Agreement, and a post-award audit by the State and/or Federal government. Accordingly, Grantee agrees to retain and provide access to records and the property where improvements were made, and to cooperate if selected for audit. Authority for audits is covered in part under Section 1515(a) of the ARRA. Grantee agrees to follow the tracking and documentation responsibilities required by ARRA and 2 CFR §176.210, as applicable.

 - a. To maximize the transparency and accountability of funds authorized under ARRA, 2 CFR §215.21, “Uniform Administrative Requirements for Grants and Agreements,” and OMB Circular A–102, “Common Rules” provisions, as applicable, Grantee agrees to maintain records that identify adequately the source and application of ARRA funds. OMB Circular A–102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.

- b. Grantees covered by the Single Audit Act Amendments of 1996 and OMB Circular A–133, “Audits of States, Local Governments, and NonProfit Organizations,” must separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF–SAC) required by OMB Circular A–133. OMB Circular A–133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>.
 - c. Grantee agrees to separately identify to each of its subcontractors, and document at the time of any subaward and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a Grantee awards Recovery Act funds for an existing program, the information furnished to its subcontractors shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.
 - d. Grantee agrees to include on its Schedule of Expenditures of Federal Awards (SEFA) information to specifically identify ARRA funding, as applicable. This information is needed to allow the Trust to properly monitor Grantee and subcontractor expenditures of ARRA funds as well as oversight by the federal awarding agencies, Offices of Inspector General and the Government Accountability Office.
8. **PUBLIC DISCLOSURE.** The ARRA requires transparency and public disclosure of how funds are managed, awarded, and spent. Accordingly, Grantee agrees to permit public disclosure of information and authorize disclosure of information about how ARRA funds were awarded and spent, including but not limited to disclosure on a government website (www.recovery.gov), in a news report, or as a result of a request under the federal Freedom of Information Act or Maine Freedom of Access Act.
9. **WHISTLEBLOWER PROTECTION.** Grantee and its subcontractors must comply with Section 1553 of ARRA, which is summarized below. The applicable whistleblower protection provisions of Section 1553 include, but are not limited to:
- a. **Prohibition on Reprisals:** An employee of any non-federal employer receiving ARRA funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosures by the employee to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer with authority to investigate, discover or terminate misconduct), a court or grand jury, or the head of a federal agency or its representatives that the employee reasonably believes are evidence of (1) gross mismanagement of a contract or grant relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to implementation or use of ARRA funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, award or issued relating to ARRA funds.
 - b. **Agency Action:** Not later than 30 days after receiving an inspector general report of an alleged reprisal, the head of the agency shall determine whether there is sufficient basis to conclude that the non-federal employer has subjected the employee to a prohibited reprisal. The agency shall either issue an order denying relief in whole or in part or shall take one or more of the following actions: (1) order the employer to take affirmative action to abate the reprisal; (2) order the employer to reinstate the person to the position that the person held before the reprisal, together with compensation including back pay, compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken; (3) order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys’ fees and expert witnesses’ fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.
 - c. **Non-enforceability of Certain Provisions Waiving Rights and Remedies or Requiring Arbitration:** Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of

employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

- d. In accordance with ARRA section 1553(e), any employer receiving covered funds must post notice of the rights and remedies provided in ARRA section 1553. (Refer to ARRA section 1553, www.Recovery.gov, for specific requirements of this section and prescribed language for the notices.)
10. FALSE CLAIMS ACT. Grantee shall promptly refer to the Trust and an appropriate federal inspector general any credible evidence that a principal, employee, agent, subgrantee, subcontractor, vendor or other person has committed a false claim or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.
 11. AVAILABILITY OF FUNDS. Pursuant to Section 1603 of ARRA, 31 U.S.C. § 1552, and USDOE guidance (<http://www.gc.doe.gov/GCHotlineFAQ.htm>), funds appropriated under ARRA and obligated to this award are available for reimbursement of costs until April 30, 2012 or as otherwise specified in the terms and conditions of the grant or award.
 12. CERTIFICATIONS. With respect to ARRA funds made available to local governments for infrastructure improvements, the mayor or chief executive, as appropriate, certifies, by virtue of acceptance of the award, that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. Grantee shall provide a certification that includes a description of the investment, the estimated total cost, and the amount of covered funds to be used, and such certification shall be posted on the Internet. Disbursement of infrastructure investment funding from funds made available under ARRA is contingent on such certifications.
 13. NOTICE REGARDING SENSE OF CONGRESS; BUY AMERICAN REQUIREMENT. It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made. In accordance with ARRA section 1605 and 2 CFR §176.140, if applicable, ARRA funds may not be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States in a manner consistent with United States obligations under international agreements. This requirement may only be waived by the applicable federal agency in limited situations as set out in ARRA, section 1605. Grantee must comply with the Buy American and other requirements set forth at **Exhibit 1** ("Required Use of American Iron, Steel, and Manufactured Goods – Section 1605 of the American Recovery and Reinvestment Act of 2009"). If requested by the Trust, Grantee agrees that it will complete and certify by signature its and its subcontractors and vendors commitment and compliance with ARRA's Buy American requirements.
 14. WAGE RATES REQUIREMENTS; COPELAND ACT; DAVIS-BACON ACT. In accordance with ARRA section 1606 and 2 CFR §176.190, if applicable, all laborers and mechanics employed by Grantee or its subcontractors on projects funded directly by, or assisted in whole or in part with funds under ARRA involving construction, alteration, maintenance or repair work, shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (Davis-Bacon Act). Guidance on the Davis-Bacon Act compliance requirements may be viewed at http://www1.eere.energy.gov/wip/davis-bacon_act.html. Grantee must comply with the contract provisions set forth in 29 CFR § 5.5 for projects financed in whole or in part with federal funds, as modified and supplemented by the USDOE Special Provisions Relating to Work Funded Under the American Recovery and Reinvestment Act of 2009 (found at <http://management.energy.gov/documents/ARRAAttachment3.pdf>), which are set forth at **Exhibit 2** ("Labor Standards Applicable to ARRA-Funded Construction Projects").
 15. DATA IN SUPPORT OF ENERGY SAVINGS AND EMISSIONS REDUCTIONS. The Trust may request utility bill data from Grantee and/or its subcontractors to track program energy saving and greenhouse gas emission reduction impacts. If requested, Grantee agrees to complete an authorization form to grant the Trust permission to exchange this data with the Grantee's energy utility company. Upon written request from the Trust, Grantee agrees to allow the Trust or its agent access to facilities and records to collect data needed to measure and verify electricity and fuel reductions (this may include but is not limited to utility bills, metering data, facility equipment surveys, information on operational practices, and site occupancy levels). Grantee also agrees to provide the

Trust or its agent associated data from a period prior to the start of the project as necessary to establish baseline energy and/or fuel use. Grantee shall include this provision in any subaward agreements.

16. SPECIAL CONTRACTING PROVISIONS; PROCUREMENT. In accordance with ARRA section 1554, Grantee agrees to award contracts as fixed-price contracts through the use of competitive procedures to the extent possible. Grantee further agrees that it will provide to the Trust a summary of any contract awarded with ARRA funds that is not fixed-price and not awarded using competitive procedures to be posted in a special section of the ARRA website established in accordance with ARRA section 1526. Pursuant to 10 CFR 600.236, Grantee shall observe standard government procurement practices so long as they are consistent with federal law and shall maintain a contract administration system that ensures that contractors perform in accordance with the terms, conditions, and specifications of the contracts or purchase orders.

C. USDOE AND OTHER FEDERALLY-REQUIRED TERMS AND CONDITIONS

1. FEDERAL STEWARDSHIP. USDOE will exercise normal Federal stewardship in overseeing project activities and work performed using ARRA funds. Stewardship activities may include, without limitation, conducting site visits; reviewing performance and financial reports; providing technical assistance and or temporary intervention in extraordinary circumstances; and reviewing technical performance after project completion to ensure that the award objectives have been accomplished.
2. SITE VISITS. USDOE and the Trust, and their authorized representatives, have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. Grantee must provide, and must require any subcontractors to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives to perform their duties. All site visits will be performed in a manner that does not unduly interfere with or delay the work.
3. CIVIL RIGHTS OBLIGATIONS. Pursuant to Section 1.7 of the guidance memorandum issued by the OMB on April 3, 2009 and 10 C.F.R. § 1040.1 *et seq.*, ARRA funds must be distributed and expended in accordance with all anti-discrimination and equal opportunity statutes, regulations, and Executive Orders pertaining to the expenditure of federal funds. Accordingly, Grantee must comply with Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination), Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination), Title IX of the Education Amendments of 1972 (prohibiting sex discrimination in education and training programs), the Age Discrimination Act of 1975 (prohibiting age discrimination in the provision of services), and all other applicable anti-discrimination and equal opportunity statutes, regulations, and Executive Orders. In accordance with 10 C.F.R. § 1040.1 *et seq.*, Grantee must maintain records, provide information, and afford access to its records to USDOE and/or the Trust, to the extent required to determine whether it is in compliance with the requirements of this section. Grantee must also flow down the requirements of this section by providing written notice to its subcontractors of their obligations under these regulations. Grantee must certify with its signature its compliance with the USDOE nondiscrimination requirements set forth at **Exhibit 3** ("United States Department of Energy, Assurance of Compliance, Nondiscrimination in Federally Assisted Programs").
4. OTHER USDOE-REQUIRED NATIONAL POLICY ASSURANCES. As applicable, Grantee agrees to adhere to and include in any subaward the USDOE National Policy Assurances set forth in **Exhibit 4** ("USDOE National Policy Assurances").
5. DECONTAMINATION AND/OR DECOMMISSIONING (D&D) COSTS Neither the Trust nor USDOE shall be responsible for or have any obligation to Grantee for (i) Decontamination and/or Decommissioning (D&D) of any Grantee's facilities, or (ii) any costs that may be incurred by Grantee in connection with the D&D of any of its facilities due to the performance of the work under an ARRA-funded agreement, whether said work was performed prior to or subsequent to the effective date of an ARRA-funded agreement.
6. LOBBYING RESTRICTIONS. No funds shall be expended directly or indirectly to influence congressional action in connection with the awarding of any federal ARRA-recipient agreement, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation,

renewal, amendment or modification of any federal ARRA-recipient agreement, grant, loan or cooperative agreement.

7. DEBARMENT AND SUSPENSION. Grantee must comply with requirements regarding debarment and suspension in Subpart C of 2 CFR §§180 and 901.
8. DRUG-FREE WORKPLACE. Grantee shall comply with the Drug-Free workplace Act of 1988 found at <http://law.justia.com/us/cfr/title10/10-4.0.1.3.15.html>.
9. CERTIFICATIONS: LOBBYING, DEBARMENT AND SUSPENSION, OTHER RESPONSIBILITY MATTERS, AND DRUG FREE WORKPLACE REQUIREMENTS. Grantee must complete and certify by execution of **Exhibit 5** ("Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug Free Workplace Requirements") its commitment to comply with these requirements. Grantee must disclose all lobbying activities by completing and executing **Exhibit 6** ("Disclosure of Lobbying Activities").
10. NATIONAL ENVIRONMENTAL POLICY ACT REQUIREMENTS. In accordance with ARRA section 1609, Grantee must comply with any applicable environmental impact requirements of the National Environmental Policy Act of 1970 (NEPA), as amended and the Council on Environmental Quality regulations contained in 40 C.F.R. § 1500 *et seq.*
11. HISTORIC PRESERVATION. Prior to the expenditure of federal funds to alter any structure or site, Grantee must be in compliance with the requirements of Section 106 of the National Historic Preservation Act outlined in 36 C.F.R. Part 800, consistent with USDOE's 2009 letter of delegation authority regarding NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places.
12. WASTE MANAGEMENT PLAN. Prior to the proposed project activities generating any waste, Grantee is required to submit a copy of its Waste Management Plan to the Trust. This Waste Management Plan will describe Grantee's plan to dispose of any sanitary or hazardous waste generated by the proposed project activities. Sanitary and hazardous waste includes, but is not limited to, construction and demolition debris, old light bulbs, lead ballasts, piping, roofing material, discarded equipment, debris, and asbestos. Grantees' Waste Management Plan must comply with all federal, state, and local laws and regulations governing waste disposal.
13. INTELLECTUAL PROPERTY. Grantee shall comply with the intellectual property requirements found at http://www.gc.doe.gov/financial_assistance_awards.htm. Questions regarding intellectual property matters should be referred to the USDOE Award Administrator and the Patent Counsel designated as the service provider for the USDOE office that issued this award. The IP Service Providers List is found at [http://www.gc.doe.gov/documents/Intellectual_Property_\(IP\)_Service_Providers_for_Acquisition.pdf](http://www.gc.doe.gov/documents/Intellectual_Property_(IP)_Service_Providers_for_Acquisition.pdf). Grantee may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. USDOE and the Trust reserve a royalty free, non-exclusive and irrevocable right to reproduce, publish or otherwise use the work for State or Federal purposes and to authorize others to do so. The USDOE and the Trust have the right to: (1) obtain, reproduce, publish or otherwise use the data first produced under an award; and (2) authorize others to receive, reproduce, publish or otherwise use such data for State or Federal purposes.
14. PUBLICATIONS. Grantee is encouraged to publish or otherwise make publicly available the results of the work conducted under this Agreement. Grantee agrees that all publications created with funding under this Agreement shall prominently contain the following statement: "This work was prepared under a grant from the United States Department of Energy through the Efficiency Maine Trust using, at least in part American Recovery and Reinvestment Act funds. Point of view or opinions expressed in this work are those of the authors and do not necessarily represent the official position or policies of the United States Department of Energy or Efficiency Maine Trust."
15. COMPLIANCE WITH FEDERAL, STATE AND MUNICIPAL REQUIREMENTS. Grantee must obtain any required permits and comply with any applicable federal, state, and municipal laws, codes, assessment, and regulations for work performed under this award.

17. CONFLICTING CONDITIONS. Any apparent inconsistency between federal statutes and regulations and the terms and conditions contained in an award must be referred to the Trust for guidance.
18. SUBCONTRACTOR REQUIREMENTS. Grantee shall submit to the Trust copies of all executed subcontracts. Grantee shall also submit all applicable prevailing wage determinations for any and all labor and mechanic work to be performed, for the Trust approval. Grantee must include these Special Terms and Conditions, including this requirement, in all of its subcontracts.
19. LIMITATION ON USE OF FUNDS. Grantee shall comply with any limitation or restriction on the use of EECBG funds for administrative purposes, revolving loan funds, and sub-grants to nongovernmental organizations as may be applicable under governing law.
20. EECBG FUNDS - COMPLIANCE WITH THE SINGLE AUDIT ACT AND OMB CIRCULAR A-133. In order to be eligible for EECBG Program funding, all local government entities and lead collaborative applicants must be in compliance with the requirements of the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156, and Office of Management and Budget (OMB) Circular A-133, Audits of State, Local Governmental, and Non-Profit Organizations. More specifically, OMB Circular A-133, Subpart B, Section .200 requires that non-Federal entities which expend \$500,000 or more in a year in Federal awards shall have a single or program specific audit conducted for that year. Grantee understands and acknowledges that prior to the Trust reimbursing Grantee for any project costs Grantee must demonstrate compliance with the Single Audit Act and OMB Circular A-133 as applicable. If after four months following the execution of this Agreement Grantee is not in compliance with these requirements, the Trust reserves the right to terminate the grant award and reallocate EECBG Program funding. Further, Grantee understands and acknowledges that compliance with the Single Audit Act and OMB Circular A-133 is mandatory and that failure to comply at any time during the period of this Agreement could adversely affect the Trust's ability to reimburse project costs, and may require the termination and reallocation of the grant award.
21. ADDITIONAL ARRA AND FEDERAL CONTRACTING FLOW DOWN REQUIREMENTS. All requirements, restrictions and obligations regarding the use of ARRA awards and other federal funds are deemed incorporated in this Agreement to the extent necessary to ensure compliance with applicable law. Any alterations, additions, or deletions to the terms of the Agreement that are required by changes in federal law or regulation governing the use of ARRA funds are automatically incorporated in the Agreement without the necessity of a formal written amendment. Policies and reporting requirements may be amended during the Term of the Agreement as the federal government issues policy directives to establish, interpret, or clarify use of ARRA funds. Such policy directives may be promulgated by the Trust in the form of Information Bulletins and shall constitute amendments to the Agreement as necessary to ensure compliance with applicable law. Grantee agrees to comply with all such requirements, restrictions and obligations and shall cause its subcontractors to comply with all such requirements, restrictions and obligations. Nothing contained in the Agreement, or in any determination, bulletin, operating guideline, or other communication from the Trust shall relieve Grantee of its obligation to keep itself informed of applicable state and federal laws and regulations, and to be in complete compliance and conformity therewith.

EXHIBIT 1**REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS –
SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009****NOT APPLICABLE TO THIS GRANT**

[This provision applies only when ARRA funds are awarded for construction, alteration, maintenance, or repair of a public building or public work and the total project value is estimated over \$7,443,000 and involves iron, steel, and/or manufactured goods materials covered under international agreements.]

(a) Definitions. As used in this award term and condition—

(1) Manufactured good means a good brought to the construction site for incorporation into the building or work that has been—

- (i) Processed into a specific form and shape; or
- (ii) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

(2) Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

(3) Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) Domestic preference.

(1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111--5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this section and condition.

(2) This requirement does not apply to the material listed by the Federal Government as follows: none.

(3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this section and condition if the Federal Government determines that—

- (i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
- (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) Request for determination of inapplicability of Section 1605 of the Recovery Act.

(1)(i) Any request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this section shall include adequate information for Federal Government evaluation of the request, including—

- (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
- (B) Unit of measure;

- (C) Quantity;
- (D) Cost;
- (E) Time of delivery or availability;
- (F) Location of the project;
- (G) Name and address of the proposed supplier; and
- (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this section.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.

(iv) Any request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the Trust could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the Trust does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

(d) Data. To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the Trust shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Items Cost Comparison

Description	Unit of Measure	Quantity	Cost (dollars)*
Item 1:			
Foreign steel, iron, or manufactured good			
Domestic steel, iron, or manufactured good			
Item 2:			
Foreign steel, iron, or manufactured good			
Domestic steel, iron, or manufactured good			

REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS (COVERED UNDER INTERNATIONAL AGREEMENTS)--SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

NOT APPLICABLE TO THIS GRANT

[This provision applies only when ARRA funds are awarded for construction, alteration, maintenance, or repair of a public building or public work and the total project value is estimated over \$7,443,000 and involves iron, steel, and/or manufactured goods materials covered under international agreements.]

(a) Definitions. As used in this award term and condition –

Designated country – (1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom;

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore); or

(3) A United States-European Communities Exchange of Letters (May 15, 1995) country: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom.

Designated country iron, steel, and/or manufactured goods – (1) Is wholly the growth, product, or manufacture of a designated country; or

(2) In the case of a manufactured good that consist in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different manufactured good distinct from the materials from which it was transformed.

Domestic iron, steel, and/or manufactured good – (1) Is wholly the growth, product, or manufacture of the United States; or

(2) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed. There is no requirement with regard to the origin of components or subcomponents in manufactured goods or products, as long as the manufacture of the goods occurs in the United States.

Foreign iron, steel, and/or manufactured good means iron, steel and/or manufactured good that is not domestic or designated country iron, steel, and/or manufactured good.

Manufactured good means a good brought to the construction site for incorporation into the building or work that has been - (1) Processed into a specific form and shape; or

(2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) Iron, steel, and manufactured goods. (1) The award term and condition described in this section implements—

(i) Section 1605(a) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111--5) (Recovery Act), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States; and

(ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or manufactured goods. The Buy American requirement in section 1605 shall not be applied where the iron, steel or manufactured goods used in the project are from a Party to an international agreement that obligates the Trust to treat the goods and

services of that Party the same as domestic goods and services. This obligation shall only apply to projects with an estimated value of \$7,443,000 or more.

(2) the Trust shall use only domestic or designated country iron, steel, and manufactured goods in performing the work funded in whole or part with this award, except as provided in paragraphs (b)(3) and (b)(4) of this section.

(3) The requirement in paragraph (b)(2) of this section does not apply to the iron, steel, and manufactured goods listed by the Federal Government as follows: none.

(4) The award official may add other iron, steel, and manufactured goods to the list in paragraph (b)(3) of this section if the Federal Government determines that—

- (i) The cost of domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, and/or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the overall cost of the project by more than 25 percent;
- (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or
- (iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.

(1)(i) Any the Trust request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(4) of this section shall include adequate information for Federal Government evaluation of the request, including—

- (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
- (B) Unit of measure;
- (C) Quantity;
- (D) Cost;
- (E) Time of delivery or availability;
- (F) Location of the project;
- (G) Name and address of the proposed supplier; and
- (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(4) of this section.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(iii) The cost of iron, steel, or manufactured goods shall include all delivery costs to the construction site and any applicable duty.

(iv) Any the Trust request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the Trust could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the Trust does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other appropriate actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods.

When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods other than designated country iron, steel, and/or manufactured goods is noncompliant with the applicable Act.

(d) Data. To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Items Cost Comparison

Description	Unit of Measure	Quantity	Cost (dollars)*
Item 1:			
Foreign steel, iron, or manufactured good			
Domestic steel, iron, or manufactured good			
Item 2:			
Foreign steel, iron, or manufactured good			
Domestic steel, iron, or manufactured good			

EXHIBIT 2LABOR STANDARDS APPLICABLE TO
ARRA-FUNDED CONSTRUCTION PROJECTS**NOT APPLICABLE TO THIS GRANT DUE TO HOMEOWNER EXEMPTION TO DAVIS BACON**

[In accordance with 29 C.F.R. § 5.5 *et seq.*, the following provisions must be included in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from ARRA funds.]

DAVIS BACON ACT

(a) Definition.--"Site of the work"—

(1) Means--

(i) The primary site of the work. The physical place or places where the construction called for in the award will remain when work on it is completed; and

(ii) The secondary site of the work, if any. Any other site where a significant portion of the building or work is constructed, provided that such site is--

(A) Located in the United States; and

(B) Established specifically for the performance of the award or project;

(2) Except as provided in paragraph (3) of this definition, includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided--

(i) They are dedicated exclusively, or nearly so, to performance of the award or project; and

(ii) They are adjacent or virtually adjacent to the "primary site of the work" as defined in paragraph (a)(1)(i), or the "secondary site of the work" as defined in paragraph (a)(1)(ii) of this definition;

(3) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Grantee or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal award or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the Project site, are not included in the "site of the work." Such permanent, previously established facilities are not a part of the "site of the work" even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of an award.

(b) Minimum Wages.

(1) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor, regardless of any contractual relationship which may be alleged to exist between the Grantee or subcontractors and such laborers and mechanics.

[Current wage determinations of the Secretary of Labor are posted at www.wdol.gov, and are hereby incorporated by reference into this Agreement. Grantee and its subcontractors are responsible for checking the wage determinations published at www.wdol.gov to ensure that the most recent wage determination is incorporated into any contract or subcontract. Grantee and its subcontractors are encouraged to contact the U.S. Department of Labor Wage and Hour Division with questions concerning choosing the correct wage rates to be paid to a contractor or subcontractor.]

(2) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (e) of this article; also, regular contributions made or costs incurred for

more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period.

(3) Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the article entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

(4) The wage determination (including any additional classifications and wage rates conformed under paragraph (c) of this article) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Grantee and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(c) (1) The USDOE and/or the Trust shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the award shall be classified in conformance with the wage determination. The USDOE and/or the Trust shall approve an additional classification and wage rate and fringe benefits therefore only when all the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination.

(ii) The classification is utilized in the area by the construction industry.

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the Grantee and the laborers and mechanics to be employed in the classification (if known), or their representatives and the USDOE and/or the Trust agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the USDOE and/or the Trust to the Administrator of the:

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor
Washington, DC 20210

The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the USDOE and/or the Trust or will notify the USDOE and/or the Trust within the 30-day period that additional time is necessary.

(3) In the event the Grantee, the laborers or mechanics to be employed in the classification, or their representatives, and the USDOE and/or the Trust do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the USDOE and/or the Trust shall refer the questions, including the views of all interested parties and the recommendation of the USDOE and/or the Trust, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the USDOE and/or the Trust or will notify the USDOE and/or the Trust within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits, where appropriate) determined pursuant to subparagraphs (c)(2) and (c)(3) of this article shall be paid to all workers performing work in the classification under this award from the first day on which work is performed in the classification.

(d) Whenever the minimum wage rate prescribed in the award for a class of laborers or mechanic includes a fringe benefit which is not expressed as an hourly rate, the Grantee shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(e) If the Grantee does not make payments to a trustee or other third person, the Grantee may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, that the Secretary of Labor has found, upon the written request of the Grantee, that

the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Grantee to set aside in a separate account assets for the meeting of obligations under the plan or program.

RATES OF WAGES

The minimum wages to be paid laborers and mechanics under this award involved in performance of work at the project site, as determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the pertinent locality, are included as an attachment to this award. These wage rates are minimum rates and are not intended to represent the actual wage rates that the Grantee may have to pay.

PAYROLLS AND BASIC RECORDS

(a) Payrolls and basic records relating thereto shall be maintained by the Grantee during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the article entitled Davis-Bacon Act, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Grantee shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b) (1) The Grantee shall submit weekly for each week in which any award work is performed a copy of all payrolls to the USDOE and/or the Trust. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this article. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the --

Superintendent of Documents
U.S. Government Printing Office
Washington, DC 20402

The Grantee is responsible for the submission of copies of payrolls by all subcontractors. The Grantee must notify the Trust of any non-compliance with Davis-Bacon Act prevailing wage requirements by any subcontractors.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Grantee or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the award and shall certify --

(i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this article and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the award during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR Part 3; and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the award.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph (b)(2) of this article.

(4) The falsification of any of the certifications in this article may subject the Grantee or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

(c) The Grantee or subcontractor shall make the records required under paragraph (a) of this article available for inspection, copying, or transcription by the USDOE and/or the Trust or authorized representatives of the USDOE and/or the Trust or the Department of Labor. The Grantee or subcontractor shall permit the USDOE and/or the Trust or representatives of the USDOE and/or the Trust or the Department of Labor to interview employees during working hours on the job. If the Grantee or subcontractor fails to submit required records or to make them available, the USDOE and/or the Trust may, after written notice to the Grantee, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

WITHHOLDING OF FUNDS

The USDOE and/or the Trust shall, upon his or her own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Grantee under this award or any other Federal award with the same Grantee, or any other federally assisted award subject to Davis-Bacon prevailing wage requirements, which is held by the same Grantee, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Grantee or any subcontractor the full amount of wages required by the award. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the award, the USDOE and/or the Trust may, after written notice to the Grantee, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

APPRENTICES AND TRAINEES

(a) Apprentices.

(1) An apprentice will be permitted to work at less than the predetermined rate for the work they performed when they are employed--

(i) Pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship and Training, Employer, and Labor Services (OATELS) or with a State Apprenticeship Agency recognized by the OATELS; or

(ii) In the first 90 days of probationary employment as an apprentice in such an apprenticeship program, even though not individually registered in the program, if certified by the OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Grantee as to the entire work force under the registered program.

(3) Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(1) of this article, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Grantee's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination.

(5) Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a

different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(6) In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Grantee will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(b) Trainees.

(1) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer, and Labor Services (OATELS). The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by OATELS.

(2) Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the OATELS shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed.

(3) In the event OATELS withdraws approval of a training program, the Grantee will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(c) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this article shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

COMPLIANCE WITH COPELAND ACT REQUIREMENTS

The Grantee shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this award.

SUBCONTRACTS (LABOR STANDARDS)

(a) Definition. "Construction, alteration or repair," as used in this article means all types of work done by laborers and mechanics employed by the construction Grantee or construction subcontractor on a particular building or work at the site thereof, including without limitation--

- (1) Altering, remodeling, installation (if appropriate) on the site of the work of items fabricated off-site;
- (2) Painting and decorating;
- (3) Manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work;
- (4) Transportation of materials and supplies between the site of the work within the meaning of paragraphs (a)(1)(i) and (ii) of the "site of the work" as defined in the article entitled Davis Bacon Act of this award, and a facility which is dedicated to the construction of the building or work and is deemed part of the site of the work within the meaning of paragraph (2) of the "site of work" definition; and
- (5) Transportation of portions of the building or work between a secondary site where a significant portion of the building or work is constructed, which is part of the "site of the work" definition in paragraph (a)(1)(ii) of the Davis-Bacon Act article, and the physical place or places where the building or work will remain (paragraph (a)(1)(i) of the Davis Bacon Act article, in the "site of the work" definition).

(b) The Grantee or subcontractor shall insert in any subcontracts for construction, alterations and repairs within the United States the articles entitled--

- (1) Davis-Bacon Act;
- (2) Contract Work Hours and Safety Standards Act -- Overtime Compensation (if the article is included in this award);
- (3) Apprentices and Trainees;
- (4) Payrolls and Basic Records;
- (5) Compliance with Copeland Act Requirements;
- (6) Withholding of Funds;
- (7) Subcontracts (Labor Standards);
- (8) Contract Termination -- Debarment;
- (9) Disputes Concerning Labor Standards;
- (10) Compliance with Davis-Bacon and Related Act Regulations; and
- (11) Certification of Eligibility.

(c) The Grantee shall be responsible for compliance by any contractor or lower tier subcontractor performing construction within the United States with all the award articles cited in paragraph (b).

(d) (1) Within 14 days after issuance of the award, the Grantee shall deliver to the USDOE and/or the Trust a completed Standard Form (SF) 1413, Statement and Acknowledgment, for each subcontract for construction within the United States, including the subcontractor's signed and dated acknowledgment that the articles set forth in paragraph (b) of this article have been included in the subcontract.

(2) Within 14 days after the award of any subsequently awarded subcontract the Grantee shall deliver to the USDOE and/or the Trust an updated completed SF 1413 for such additional subcontract.

(e) The Grantee shall insert the substance of this article, including this paragraph (e) in all subcontracts for construction within the United States.

CONTRACT TERMINATION – DEBARMENT

A breach of the award articles entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act -- Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Davis-Bacon and Related Act Regulations, or Certification of Eligibility may be grounds for termination of the whole award or in part for the Recovery Act covered work only, and for debarment as a Grantee and subcontractor as provided in 29 CFR 5.12.

COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are hereby incorporated by reference in this award.

DISPUTES CONCERNING LABOR STANDARDS

The United States Department of Labor has set forth in 29 CFR Parts 5, 6, and 7 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes and Appeals as defined in 10 CFR 600.22. Disputes within the meaning of this article include disputes between the Grantee (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

CERTIFICATION OF ELIGIBILITY

(a) By entering into this award, the Grantee certifies that neither it (nor he or she) nor any person or firm who has an interest in the Grantee's firm is a person or firm ineligible to be awarded Government awards by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of this award shall be subcontracted to any person or firm ineligible for award of a Government award by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

APPROVAL OF WAGE RATES

All straight time wage rates, and overtime rates based thereon, for laborers and mechanics engaged in work under this award must be submitted for approval in writing by the head of the contracting activity or a representative expressly designated for this purpose, if the straight time wages exceed the rates for corresponding classifications contained in the applicable Davis-Bacon Act minimum wage determination included in the award. Any amount paid by the Grantee to any laborer or mechanic in excess of the agency approved wage rate shall be at the expense of the Grantee and shall not be reimbursed by the Government. If the Government refuses to authorize the use of the overtime, the Grantee is not released from the obligation to pay employees at the required overtime rates for any overtime actually worked.

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following provisions apply to any award in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act:

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. USDOE and/or the Trust shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The Grantee shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring any subcontractors to include these clauses in any lower tier contracts or subcontracts. Grantee shall be responsible for compliance by any contractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

(c) In addition to the clauses contained in this section, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 C.F.R. § 5.1, Grantee and any contractors or subcontractors shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Records maintained under this paragraph shall be made available by the Grantee, its contractors and/or subcontractors for inspection, copying, or transcription by authorized representatives of USDOE, the Trust, and the

Department of Labor, and the Grantee, contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

EXHIBIT 3

DOE F 1600.5
(06-94)
All Other Editions are Obsolete

U.S. DEPARTMENT OF ENERGY
ASSURANCE OF COMPLIANCE

OMB Control No.
1910-0400

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMSOMB BURDEN DISCLOSURE STATEMENT

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Office of Information Resources Management Policy, Plans, and Oversight, Records Management Division, HR-422 - GTN, Paperwork Reduction Project (1900-0400), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585; and to the Office of Management and Budget (OMB), Paperwork Reduction Project (1900-0400), Washington, DC 20503.

Town of South Berwick, (Grantee") HEREBY AGREES to comply with Title VI of the Civil Rights Act of 1964 (Pub. L.88-352), Section 16 of the Federal Energy Administration Act of 1974 (Pub.L.93-275), Section 401 of the Energy Reorganization Act of 1974 (Pub.L.93-438), Title IX of the Education Amendments of 1972, as amended (Pub.L.92-318, Pub.L.93-568, and Pub.L.94-482), Section 504 of the Rehabilitation Act of 1973 (Pub.L.93-112), the Age Discrimination Act of 1975 (Pub.L.94-135), Title VIII of the Civil Rights Act of 1968 (Pub.L.90-284), the Department of Energy Organization Act of 1977 (Pub.L.95-91), and the Energy Conservation and Production Act of 1976, as amended (Pub.L.94-385) and Title 10, Code of Federal Regulations, Part 1040. In accordance with the above laws and regulations issued pursuant thereto, the Grantee agrees to assure that no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity in which the Grantee receives Federal assistance from the Department of Energy.

APPLICABILITY AND PERIOD OF OBLIGATION

In the case of any service, financial aid, covered employment, equipment, property, or structure provided, leased, or improved with Federal assistance extended to the Grantee by the Department of Energy, this assurance obligates the Grantee for the period during which Federal assistance is extended. In the case of any transfer of such service, financial aid, equipment, property, or structure, this assurance obligates the transferee for the period during which Federal assistance is extended. If any personal property is so provided, this assurance obligates the Grantee for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Grantee for the period during which the Federal assistance is extended to the Grantee by the Department of Energy.

EMPLOYMENT PRACTICES

Where a primary objective of the Federal assistance is to provide employment or where the Grantee's employment practices affect the delivery of services in programs or activities resulting from Federal assistance extended by the Department, the Grantee agrees not to discriminate on the ground of race, color, national origin, sex, age, or disability, in its employment practices. Such employment practices may include, but are not limited to, recruitment advertising, hiring, layoff or termination, promotion, demotion, transfer, rates of pay, training and participation in upward mobility programs; or other forms of compensation and use of facilities.

SUBRECIPIENT ASSURANCE

The Grantee shall require any individual, organization, or other entity with whom it subcontracts, subgrants, or subleases for the purpose of providing any service, financial aid, equipment, property, or structure to comply with laws cited above. To this end, the subcontractors shall be required to sign a written assurance form, however, the obligation of Grantee and subcontractors to ensure compliance is not relieved by the collection or submission of written assurance forms.

DATA COLLECTION AND ACCESS TO RECORDS

The Grantee agrees to compile and maintain information pertaining to programs or activities developed as a result of the Grantee's receipt of Federal assistance from the Department of Energy. Such information shall include, but is not limited to, the following: (1) the manner in which services are or will be provided and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination; (2) the population eligible to be served by race, color, national origin, sex, age, and disability; (3) data regarding covered employment including use or planned use of bilingual public contact employees serving beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English; (4) the location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any person on the basis of prohibited discrimination; (5) the present or proposed membership by race, color, national origin, sex, age, and disability, in any planning or advisory body which is an integral part of the program; and (6) any additional written data determined by the Department of Energy to be relevant to its obligation to assure compliance by recipients with laws cited in the first paragraph of this assurance.

The Grantee agrees to submit requested data to the Department of Energy regarding programs and activities developed by the Grantee from the use of Federal assistance funds extended by the Department of Energy, Facilities of the Grantee (including the physical plants, building, or other structures) and all records, books, accounts, and other sources of information pertinent to the Grantee's compliance with the civil rights laws shall be made available for inspection during normal business hours on request of an officer or employee of the Department of Energy specifically authorized to make such inspections. Instructions in this regard will be provided by the Director, Office of Civil Rights, U.S. Department of Energy.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts (excluding procurement contracts), property, discounts or other Federal assistance extended after the date hereto, to the Grantees by the Department of Energy, including installment payments on account after such data of application for Federal assistance which are approved before such date. The Grantee recognizes and agrees that such Federal assistance will be extended in reliance upon the representation and agreements made in this assurance and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Grantee, the successors, transferees, and assignees, as well as the person(s) whose signature appears below and who are authorized to sign this assurance on behalf of the Grantee.

GRANTEE CERTIFICATION

The Grantee certifies that it has complied, or that, within 90 days of the date of the grant, it will comply with all applicable requirements of 10 C.F.R. § 1040.5 (a copy will be furnished to the Grantee upon written request to DOE).

Designated Responsible Employee

Perry A. Ellsworth, Town Manager

() -
Telephone Number

Signature

Date

Town of South Berwick

() -
Telephone Number

Address:

Date

Authorized Official:
President, Chief Executive Officer
or Authorized Designee

Perry A. Ellsworth, Town Manager

Signature

() -
Telephone Number

Date

EXHIBIT 4USDOE NATIONAL POLICY ASSURANCES

(August 2008)

[By signing this Agreement or accepting funds under this Agreement, the Grantee assures that it will comply with applicable provisions of the following USDOE National Policy Assurances.]

TO THE EXTENT THAT A TERM DOES NOT APPLY TO A PARTICULAR TYPE OF ACTIVITY OR AWARD, IT IS SELF-DELETING.

I. NONDISCRIMINATION POLICIES

You must comply with applicable provisions of the following national policies prohibiting discrimination:

1. On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), as implemented by DOE regulations at 10 CFR part 1040;
2. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), as implemented by DOE regulations at 10 CFR parts 1041 and 1042;
3. On the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C.6101 et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90 and DOE regulations at 10 CFR part 1040;
4. On the basis of disability, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DOE regulations at 10 CFR part 1041;
5. On the basis of race, color, national origin, religion, disability, familial status, and sex under Title VIII of the Civil Rights Act (42 U.S.C. 3601 et seq.) as implemented by the Department of Housing and Urban Development at 24 CFR part 100; and
6. On the basis of disability in the Architectural Barriers Act of 1968(42 U.S.C. 4151 et seq.) for the design, construction, and alteration of buildings and facilities financed with Federal funds.

II. ENVIRONMENTAL POLICIES

You must:

1. Comply with applicable provisions of the Clean Air Act (42 U.S.C.7401, et. seq.) and Clean Water Act (33 U.S.C. 1251, et. seq.), as implemented by Executive Order 11738 [3 CFR, 1971-1975 Comp., p. 799] and Environmental Protection Agency rules at 40 CFR part 32, Subpart J.
2. Immediately identify to us, as the awarding agency, any potential impact that you find this award may have on:
 - a. The quality of the human environment, including wetlands, and provide any help we may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321 et. seq.) and assist us to prepare Environmental Impact Statements or other environmental documentation. In such cases, you may take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) or limit the choice of reasonable alternatives until we provide written notification of Federal compliance with NEPA, as implemented by DOE at 10 CFR part 1021.
 - b. Flood-prone areas, and provide any help we may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et. seq.), which require flood insurance, when available, for Federally assisted construction or acquisition in flood-prone areas, as implemented by DOE at 10 CFR part 1022.

- c. Use of land and water resources of coastal zones, and provide any help we may need to comply with the Coastal Zone Management Act of 1972(16 U.S.C. 1451, et. seq.).
 - d. Coastal barriers along the Atlantic and Gulf coasts and Great Lakes' shores, and provide help we may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501 et. seq.), concerning preservation of barrier resources.
 - e. Any existing or proposed component of the National Wild and Scenic Rivers system, and provide any help we may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.).
 - f. Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide any help we may need to comply with the Safe Drinking Water Act (42 U.S.C. 300h-3).
3. Comply with applicable provisions of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), as implemented by the Department of Housing and Urban Development at 24 CFR part 35. The requirements concern lead-based paint in housing owned by the Federal Government or receiving Federal assistance.
 4. Comply with section 6002 of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6962), and implementing regulations of the Environmental Protection Agency, 40 CFR Part 247, which require the purchase of recycled products by States or political subdivision of States.

III. LIVE ORGANISMS

1. Human research subjects. You must protect the rights and welfare of individuals that participate as human subjects in research under this award in accordance with the Common Federal Policy for the Protection of Human Subjects (45 CFR part 46), as implemented by DOE at 10 CFR part 745.
2. Animals and plants.
 - a. You must comply with applicable provisions of Department of Agriculture rules at 9 CFR parts 1-4 that implement the Laboratory Animal Welfare Act of 1966 (7 U.S.C. 2131-2156) and provide for humane transportation, handling, care, and treatment of animals used in research, experimentation, or testing under this award.
 - b. You must follow the guidelines in the National Academy of Sciences (NAS) Publication "Guide for the Care and Use of Laboratory Animals" (1996, which may be found currently at <http://www.nap.edu/readingroom/books/labrats/>) and comply with the Public Health Service Policy and Government principles Regarding the Care and use of animals (included as Appendix D to the NAS Guide).
 - c. You must immediately identify to us, as the awarding agency, any potential impact that you find this award may have on endangered species, as defined by the Endangered Species Act of 1973, as amended ("the Act," 16 U.S.C. 1531-1543), and implementing regulations of the Departments of the Interior (50 CFR parts 10-24) and Commerce (50 CFR parts 217-227). You also must provide any help we may need to comply with 16 U.S.C. 1536(a)(2). This is not in lieu of responsibilities you have to comply with provisions of the Act that apply directly to you as a U.S. entity, independent of receiving this award.

IV. OTHER NATIONAL POLICIES

1. Debarment and suspension. You must comply with requirements regarding debarment and suspension in Subpart C of 2 CFR parts 180 and 901.

2. Drug-free workplace. You must comply with drug-free workplace requirements in Subpart B of 10 CFR part 607, which implements sec. 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).
3. Lobbying.
 - a. You must comply with the restrictions on lobbying in 31 U.S.C.1352, as implemented by DOE at 10 CFR part 601, and submit all disclosures required by that statute and regulation.
 - b. If you are a nonprofit organization described in section 501(c)(4)of title 26, United States Code (the Internal Revenue Code of 1968),you may not engage in lobbying activities as defined in the Lobbying Disclosure Act of 1995 (2 U.S.C., Chapter 26). If we determine that you have engaged in lobbying activities, we will cease all payments to you under this and other awards and terminate the awards unilaterally for material failure to comply with the award terms and conditions. By submitting an application and accepting funds under this agreement, you assure that you are not an organization described in section 501(c)(4) that has engaged in any lobbying activities described in the Lobbying Disclosure Act of 1995 (2 U.S.C. 1611).
 - c. You must comply with the prohibition in 18 U.S.C. 1913 on the use of Federal funds, absent express Congressional authorization, to pay directly or indirectly for any service, advertisement or other written matter, telephone communication, or other device intended to influence at any time a Member of Congress or official of any government concerning any legislation, law, policy, appropriation, or ratification.
4. Officials not to benefit. You must comply with the requirement that no member of Congress shall be admitted to any share or part of this agreement, or to any benefit arising from it, in accordance with 41U.S.C. 22.
5. Hatch Act. If applicable, you must comply with the provisions of the Hatch Act (5 U.S.C. 1501-1508 and 7324-7326), as implemented by the Office of Personnel Management at 5 CFR part 151, which limits political activity of employees or officers of State or local governments whose employment is connected to an activity financed in whole or part with Federal funds.
6. Native American graves protection and repatriation. If you control or possess Native American remains and associated funerary objects, you must comply with the requirements of 43 CFR part 10, the Department of the Interior implementation of the Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C., chapter 32).
7. Fly America Act. You must comply with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118), commonly referred to as the “Fly America Act,” and implementing regulations at 41 CFR 301-10.131 through 301-10.143. The law and regulations require air transport of people or property to, from, between or within a country other than the United States, the cost of which is supported under this award, to be performed by or under a cost-sharing arrangement with a U.S. flag carrier, if service is available.
8. Use of United States-flag vessels.
 - a. Pursuant to Pub. L. 664 (43 U.S.C. 1241(b)), at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds under this award, and which may be transported by ocean vessel, must be transported on privately owned United States-flag commercial vessels, if available.
 - b. Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, “on-board” commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph 9.a of this section shall be furnished to both our award administrator (through you in the case of your contractor’s bill-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

9. Research misconduct. You must comply with the government-wide policy on research misconduct issued by the Office of Science and Technology Policy (available in the Federal Register at 65 FR 76260, December 6, 2000, or on the Internet at www.ostp.gov), as implemented by DOE at 10 CFR part 733 and 10 CFR 600.31.
10. Requirements for an Institution of Higher Education Concerning Military recruiters and Reserve Officers Training Corps (ROTC).
- a. As a condition for receiving funds under an award by the National Nuclear Security Administration of the Department of Energy, you agree that you are not an institution of higher education that has a policy or practice placing any of the restrictions specified in 10 U.S.C. 983. as implemented by 32 CFR part 216, on:
 - i. Maintenance, establishment, or operation of Senior ROTC units, or student participation in those units; or
 - ii. Military recruiters' access to campuses, students on campuses, or information about students.
 - b. If you are determined, using the procedures in 32 CFR part 216, to be such an institution of higher education during the period of performance of this award, we:
 - i. Will cease all payments to you of funds under this award and all other awards subject to the requirements in 32 CFR part 216; and
 - ii. May suspend or terminate those awards unilaterally for material failure to comply with the award terms and conditions.
11. Historic preservation. You must identify to us any:
- a. Any property listed or eligible for listing on the National Register of Historic Places that will be affected by this award, and provide any help we may need, with respect to this award, to comply with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f), as implemented by the Advisory Council on Historic Preservation regulations at 36 CFR part 800 and Executive Order 11593, "Identification and Protection of Historic Properties," [3 CFR, 1971-1975 Comp., p. 559].
 - b. Potential under this award for irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data, and provide any help we may need, with respect to this award, to comply with the Archaeological and Historic Preservation Act of 1974 (16 U.S.C.469a-1, et seq.).
12. Relocation and real property acquisition. You must comply with applicable provisions of 49 CFR part 24, which implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970(42 U.S.C. 4601, et seq.) and provides for fair and equitable treatment of persons displaced by federally assisted programs or persons whose property is acquired as a result of such programs.
13. Confidentiality of patient records. You must keep confidential any records that you maintain of the identity, diagnosis, prognosis, or treatment of any patient in connection with any program or activity relating to substance abuse education, prevention, training, treatment, or rehabilitation that is assisted directly or indirectly under this award, in accordance with 42 U.S.C. 290dd-2.
14. Constitution Day. You must comply with Public Law 108-447, Div. J, Title I, Sec. 111 (36 U.S.C. 106 note), which requires each educational institution receiving Federal funds in a Federal fiscal year to hold an educational program on the United States Constitution on September 17th during that year for the students served by the educational institution.
15. Trafficking in Persons
- a. Provisions applicable to a Grantee that is a private entity.
 1. You as the Grantee, your employees, contractors and subcontractors under this award, and contractors' and subcontractors' employees may not—

- i. Engage in severe 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 awarding agency, may unilaterally terminate this award, without penalty, if you or a contractor or subcontractor 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 a contractor or subcontractor 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 Government wide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR part 901.
- b. Provision applicable to a Grantee other than a private entity. We, as the awarding agency, may unilaterally terminate this award, without penalty, if a Grantee, contractor or subcontractor 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 Grantee, contractor or subcontractor 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 Government wide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR part 901.
- c. Provisions applicable to any Grantee.
 - 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 purposes of this award term:
 - 1. “Employee” means either:

- i. An individual employed by you or a contractor or subcontractor 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 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).

V. NATIONAL POLICY REQUIREMENTS FOR SUBAWARDS.

You must include in any subaward you make under this award the requirements of the national policy requirements in Sections I through IV of this document that apply, based on the type of subawardee organization and situation.

EXHIBIT 5

CERTIFICATIONS REGARDING LOBBYING;
DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS;
AND DRUG FREE WORKPLACE REQUIREMENTS

Grantees should refer to the regulations cited below to determine the certification to which they are required to attest. Grantees should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 10 CFR Part 601 "New Restrictions on Lobbying," 10 CFR Part 606 "Government wide Debarment and Suspension (Nonprocurement)" and 10 CFR Part 607 "Government wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when determining whether to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) **The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.**

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

2. ADDITIONAL LOBBYING REPRESENTATION

Grantee organizations which are described in section 501(c)(4) of the Internal Revenue Code of 1986 and engage in lobbying activities after December 31, 1995, are not eligible for the receipt of Federal funds constituting an award, grant, or loan.

As set forth in section 3 of the Lobbying Disclosure Act of 1995 as amended, (2 U.S.C. 1602), lobbying activities are defined broadly to include, among other things, contacts on behalf of an organization with specified employees of the Executive Branch and Congress with regard to Federal legislative, regulatory, and program administrative matters.

Check the appropriate block:

The Grantee is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986?

Yes No

If you checked "Yes" above, check the appropriate block:

The Grantee represents that after December 31, 1995 it has has not engaged in any lobbying activities as defined in the Lobbying Disclosure Act of 1995, as amended.

3. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

- (1) The Grantee certifies to the best of its knowledge and belief, that it and its principals:
- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery; falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective Grantee is unable to certify to any of the statements in this certification, such prospective Grantee shall attach an explanation to this proposal.

4. DRUG-FREE WORKPLACE

This certification is required by the Drug-Free Workplace Act of 1988 (Pub.L. 100-690, Title V, Subtitle D) and is implemented through additions to the Debarment and Suspension regulations, published in the Federal Register on January 31, 1989, and May 25, 1990.

ALTERNATE I (GRANTEES OTHER THAN INDIVIDUALS)

- (1) The Grantee certifies that it will or will continue to provide a drug-free workplace by:
- (a) Publishing 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 violation of such prohibition;
 - (b) Establishing an ongoing 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 employees for drug abuse violations occurring in the workplace;
 - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace not later than five calendar days after such conviction;

- (e) Notifying the agency, in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug- free workplace through implementation of paragraphs (a),(b),(c),(d),(e), and (f).

(2) The Grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance: (Street address, city, county, state, zip code)

Check if there are workplaces on file that are not identified here.

ALTERNATE II (GRANTEES WHO ARE INDIVIDUALS)

- (1) The Grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant.
- (2) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

5. SIGNATURE

As the duly authorized representative of the Grantee, I hereby certify that the Grantee will comply with the above certifications.

Name of Applicant: Town of South Berwick

Printed Name and Title of Authorized Representative: Perry A. Ellsworth, Town Manager

SIGNATURE

DATE

EXHIBIT 6

DISCLOSURE OF LOBBYING ACTIVITIES

[Insert OMB Disclosure of Lobbying Activities reporting form and Instructions.]



EMT SEP Grant
Agreement - Disclosu

RIDER E**SUBCONTRACTOR FLOW DOWN REQUIREMENTS UNDER ARRA**

Grantee is a subrecipient of federal ARRA stimulus funds and, as such, is obligated to pass through or “flow down” certain contractual provisions to its subcontractors as prescribed by governing law. The provisions set forth below must be included in all subcontracts between Grantee and any subcontractor utilizing funds under the American Recovery and Reinvestment Act of 2009 (ARRA). The pass through contractual provisions set forth in this Rider E are minimum requirements. Grantee is solely responsible for ensuring that any subcontract in connection with the Project contains all pass through or flow down provisions as may be required under applicable laws, rules, and regulations.

1. **ARRA-FUNDED PROJECTS.** Funding for this subcontract is provided in whole or in part from an award under the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. 111-5, administered by the United States Department of Energy (USDOE) and the State of Maine, through Efficiency Maine Trust. This subcontract is subject to applicable State and Federal laws, rules, and regulations relating to the availability and use of ARRA funds. Subcontractor may be subject to audit by State and Federal agencies in connection with the use of ARRA funds and the performance of this subcontract. This subcontract may be canceled, terminated, or suspended for any failure to comply with the operational and reporting requirements contained herein or otherwise required by law.
2. **SEGREGATION OF FUNDS.** Subcontractor shall segregate revenues, obligations, and expenditures of ARRA funds from other funding. No part of funds available under ARRA may be commingled in accounting records with any other funds or used for a purpose other than that of making payment for costs allowable under ARRA and this agreement.
3. **PROHIBITIONS ON USE OF FUNDS.** Pursuant to ARRA Section 1604, none of the funds provided under the Agreement derived from the ARRA may be used for or in relation to: casinos or other gambling establishments, aquariums, zoos, golf courses, or swimming pools.
4. **REGISTRATION AND REPORTING REQUIREMENTS.** The award of funds under the Agreement requires reporting on use of ARRA funds. Subcontractor agrees to cooperate with Contractor/Subrecipient in the reporting of information as required under the ARRA and governing regulations. In order to facilitate such reporting, Subcontractor must provide its Dun and Bradstreet Data Universal Numbering System (DUNS) Number (<http://www.dnb.com>) and such other pertinent information as may be required to allow for compliance with ARRA reporting requirements.
5. **ACCESS TO RECORDS.** With respect to each agreement utilizing at least some of the funds appropriated or otherwise made available by the ARRA, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized: (1) to examine any records of the Subcontractor or any of its subcontractors or subgrantees or any agency administering the Agreement that pertain to, and involve transactions that relate to, the Agreement and any subcontract, grant, or subgrant; and (2) to interview any officer or employee of the subcontractor, grantee, subgrantee, or agency regarding such transactions.
6. **WHISTLEBLOWER PROTECTION.** In accordance with ARRA section 1553, the Subcontractor must ensure employees will not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosures by the employee that the employee reasonably believes are evidence of (1) gross mismanagement of a contract or granted relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to implementation or use of ARRA funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, award or issued relating to ARRA funds. In accordance with ARRA section 1553(e), the Subcontractor must post notice of the rights and remedies provided in ARRA section 1553.
7. **INFORMATION IN SUPPORT OF THE RECOVERY ACT.** Subcontractor may be required to submit backup documentation for expenditures of funds under the ARRA including such items as timecards and invoices.

Subcontractor shall maintain records and provide copies of backup documentation at the request of the Agreement Administrator or other Efficiency Maine Trust or USDOE designee.

8. FALSE CLAIMS ACT. Subcontractor shall promptly notify Efficiency Maine Trust and refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subgrantee, subcontractor or other person has committed a false claim or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.
9. BUY AMERICAN. In accordance with ARRA section 1605 and 2 CFR §176.140, if applicable, Subcontractor shall not use ARRA funds for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States in a manner consistent with United States obligations under international agreements. Subcontractor understands that this requirement may only be waived by the applicable federal agency in limited situations as set out in ARRA, section 1605. Guidance on the Buy American compliance requirements may be viewed at http://www1.eere.energy.gov/recovery/buy_american_provision.html.

Subcontractor should take note that, even if the Buy American provisions do not apply to this agreement, Congress has expressed its sense that, to the greatest extent practicable, all equipment and products purchased with ARRA funds should be American-made.

10. WAGE REQUIREMENTS; COPELAND ACT; DAVIS-BACON ACT. In accordance with ARRA section 1606 and 2 CFR §176.190, if applicable, all laborers and mechanics employed by Subcontractor on projects funded directly by, or assisted in whole or in part with funds under ARRA, shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (Davis-Bacon Act). Guidance on the Davis-Bacon Act compliance requirements may be viewed at http://www1.eere.energy.gov/wip/davis-bacon_act.html. The contract provisions set forth in 29 CFR §5.5 for projects financed in whole or in part with federal funds, as modified and supplemented by the USDOE Special Provisions Relating to Work Funded Under the American Recovery and Reinvestment Act of 2009 (which may be found at <http://management.energy.gov/documents/ARRAAttachment3.pdf>), are incorporated herein.
11. TRACKING EXPENDITURES AND AUDIT REQUIREMENTS. Subcontractor may be subject to a pre-award audit, monitoring during the term of this Agreement, and a post-award audit by the State and/or Federal. Accordingly, Subcontractor agrees to retain records for five years, provide access to records and the property where improvements were made, and to cooperate if selected for audit. Authority for audits is covered in part under Section 1515(a) of the ARRA. Subcontractor agrees to follow the tracking and documentation responsibilities required by Section 1606 of ARRA and 2 CFR §176.210, if applicable.
- a. To maximize the transparency and accountability of funds authorized under ARRA, 2 CFR §215.21, "Uniform Administrative Requirements for Grants and Agreements," and OMB Circular A-102, "Common Rules" provisions, if applicable, Subcontractor agrees to maintain records that identify adequately the source and application of ARRA funds. OMB Circular A-102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.
 - b. If applicable, Subcontractor agrees to include on its Schedule of Expenditures of Federal Awards (SEFA) information to specifically identify ARRA funding. This information is needed to allow Efficiency Maine Trust to properly monitor subrecipient expenditures of ARRA funds as well as oversight by the federal awarding agencies, Offices of Inspector General and the Government Accountability Office.
12. USDOE STEWARDSHIP; SITE VISITS. USDOE will exercise normal Federal stewardship in overseeing project activities and work performed using ARRA funds. Stewardship activities may include, without limitation, conducting site visits; reviewing performance and financial reports; providing technical assistance and or temporary intervention in extraordinary circumstances; and reviewing technical performance after project completion to ensure that the award objectives have been accomplished. USDOE and Efficiency Maine Trust, and their authorized representatives, have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. Subcontractor must provide reasonable access to facilities, office space, resources, and assistance for the safety

and convenience of the government representatives to perform their duties. All site visits will be performed in a manner that does not unduly interfere with or delay the work.

13. PUBLIC DISCLOSURE. The ARRA requires transparency and public disclosure of how funds are managed, awarded, and spent. Accordingly, Subcontractor agrees to permit public disclosure of information and authorize disclosure of information about how ARRA funds were awarded and spent, including but not limited to disclosure on a government website, in a news report, or as a result of a request under the Freedom of Information Act or Maine Freedom of Access Act.
14. CIVIL RIGHTS OBLIGATIONS. Pursuant to Section 1.7 of the guidance memorandum issued by the OMB on April 3, 2009, ARRA funds must be distributed and expended in accordance with all anti-discrimination and equal opportunity statutes, regulations, and Executive Orders pertaining to the expenditure of federal funds. Accordingly, Subcontractor must comply with Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination), Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination), Title IX of the Education Amendments of 1972 (prohibiting sex discrimination in education and training programs), the Age Discrimination Act of 1975 (prohibiting age discrimination in the provision of services), and all other applicable anti-discrimination and equal opportunity statutes, regulations, and Executive Orders.
15. COMPLIANCE WITH FEDERAL, STATE AND MUNICIPAL REQUIREMENTS. Subcontractor must comply with any required permitting, licensing, reporting and other applicable federal, state, and municipal laws, codes, assessments, and regulations for work performed under this agreement.
16. DECONTAMINATION AND/OR DECOMMISSIONING (D&D) COSTS. Neither Efficiency Maine Trust nor USDOE shall be responsible for or have any obligation to Subcontractor for (i) Decontamination and/or Decommissioning (D&D) of any Subcontractor's facilities, or (ii) any costs that may be incurred by Subcontractor in connection with the D&D of any of its facilities due to the performance of the work under an ARRA-funded agreement, whether said work was performed prior to or subsequent to the effective date of an ARRA-funded agreement.
17. LOBBYING RESTRICTIONS. No funds shall be expended directly or indirectly to influence congressional action in connection with the awarding of any federal ARRA-recipient agreement, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal ARRA-recipient agreement, grant, loan or cooperative agreement.
18. DEBARMENT AND SUSPENSION. Subcontractor must comply, and be in compliance, with requirements regarding debarment and suspension in Subpart C of 2 CFR §§180 and 901.
19. INTELLECTUAL PROPERTY. Subcontractor may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an ARRA award. USDOE and Efficiency Maine Trust reserve a royalty free, non-exclusive and irrevocable right to reproduce, publish or otherwise use the work for State or Federal purposes and to authorize others to do so. The USDOE and Efficiency Maine Trust have the right to: (1) obtain, reproduce, publish or otherwise use the data first produced under an award; and (2) authorize others to receive, reproduce, publish or otherwise use such data for State or Federal purposes.
20. CONFLICTING CONDITIONS. The provisions of the ARRA are intended to take precedence over conflicting state law. Any apparent inconsistency between federal statutes and regulations and the terms and conditions contained in this agreement must be brought to the attention of the Contractor/Subrecipient who, in turn, will refer the matter to Efficiency Maine Trust for guidance.
21. WASTE MANAGEMENT PLAN. Prior to the proposed project activities generating any waste, Subcontractor is required to submit a copy of their Waste Management Plan to Efficiency Maine Trust. This Waste Management Plan will describe Subcontractor's plan to dispose of any sanitary or hazardous waste generated by the proposed project activities. Sanitary and hazardous waste includes, but is not limited to, construction and demolition debris, old light bulbs, lead ballasts, piping, roofing material, discarded equipment, debris, and asbestos. Subcontractor's Waste Management Plans must comply with all federal, state, and local laws and regulations governing waste disposal.

22. COMPLIANCE WITH ARRA REQUIREMENTS. Subcontractor shall comply with any additional requirements of the ARRA, USDOE Financial Assistance Regulations (10 CFR Part 600), OMB circulars, and other laws, rules, and regulations as may be applicable to this agreement.

CONTRACT FOR SERVICES

Agreement made this ____ day of July, 2011 by and between the Town of South Berwick (the "Town"), a Maine Municipal Corporation with offices located at 180 Maine Street, South Berwick, Maine 03908 and The Goggin Company ("Administrator") a Maine corporation with offices located at 22 Free Street, Suite 300, Portland, Maine 04101, (individually each a "Party", collectively the "Parties"), as follows:

1. Description of Services. The Town is the Grantee under a grant known as the "Energy Efficiency and Conservation Block Grant (EECBG) Program" (the EECDBG Program). The EECDBG Program is funded under the American Recovery and Reinvestment Act ("ARRA"). The grant authority is the Efficiency Maine Trust (Efficiency Maine), an independent agency of the State of Maine. Administrator is retained under this agreement to serve as the Town's manager for compliance with terms and to oversee the reporting for and management of a grant program under the agreement between the Town and Efficiency Maine Trust ("Efficiency Maine") dated October 6, 2010, amended on November 5, 2010 and entitled "Energy Efficiency and Conservation Block Grant (EECBG) Program Agreement" and the terms thereunder (hereafter the "EECBG Agreement", attached and incorporated by reference here as Exhibit A to this agreement).

The grant funds to be issued under the EECDBG Program were secured through the collaboration and efforts of the Seacoast Energy Initiative, (SEI) a consortium of six York County towns, Kittery, Eliot, York, South Berwick, Ogunquit and North Berwick, (the "Member Towns"). The Town has agreed to serve as the representative of the Member Towns to receive, oversee and administer funds from the EECDBG, and as Grantee under the EECDBG Agreement, is required to oversee the grant program, make certain reports and certifications to Efficiency Maine and other interested parties, to organize, oversee and administer a revolving loan fund (RLF) to loan funds to qualified residents of the Member Communities for use to make energy efficiency improvements on their residences.

Per Rider A of the EECBG Agreement between the Town and Efficiency Maine, the Town's responsibilities and obligations as Grantee include:

- (a) Formation and administering a residential weatherization outreach and marketing campaign to promote energy efficiency and conservation to reduce fossil fuel emissions, reduce energy use and improve energy efficiency
- (b) Offering qualified residents of the Member Communities incentives and awards to defray costs of Efficiency Maine Home Energy Savings Program audits.
- (c) Establishing and administering a Revolving Loan Fund which provides low interest, variable term loans to qualified homeowners to improve the energy efficiency of their homes as a result of an Efficiency Maine Energy Savings Program audits (even in cases where the energy efficiency improvements may not result in an Efficiency Maine rebate).

Administrator, as agent for the Town will oversee and supervise the successful completion of these responsibilities and obligations of the Town.

Per Rider D of the EECBG Agreement between the Town and Efficiency Maine, the Town's reporting responsibilities and obligations as Grantee include and submission to audits include:

- (a) Complying with the reporting and operational requirements governing use of AARA funds;
- (b) Reporting the use of ARRA funds to Efficiency Maine; and
- (c) Submission to required audits by state for federal authorities.

Administrator, as agent for the Town will oversee and supervise the successful completion of these responsibilities and obligations of the Town.

2. Coordination of work with Seacoast Energy Initiative Steering Committee. The SEI Steering Committee is responsible for developing policies for the use of the RLF and related activities under the EECDBG. Administrator will work with the SEI Steering Committee to organize and implement the residential weatherization outreach and marketing campaign. Administrator is also responsible for proposing to the SEI Steering Committee and developing with approval of SEI's Steering Committee, strategies for audit incentives. Administrator will also oversee the management of and use of funds from the RLF in accordance with the EECDBG and SEI Steering Committee eligibility criteria for improvements and borrowers. The SEI Steering Committee will provide Administrator with general directions and oversight and Administrator will look to the SEI Steering Committee and follow its directives for details on policy direction, guidance And administration of the RLF and EECDBG programs.

3. Compliance with the EECBDG Agreement. Administrator has in its possession the current EECBDG Agreement, as amended, and will to follow and comply with the applicable conditions therein and as may be subsequently amended.

4. Consent of Efficiency Maine Trust. The Town affirms that it has obtained consent from Efficiency Main Trust to employ the services of Administrator in accordance with Section 8 "Subcontracting and Assignment" of Rider B of the EECDBG Agreement.

5. Supervised Lender License. Administrator has obtained a Supervised Lender License from the State of Maine Consumer Credit Protection Department and will maintain and comply with the standards and terms of this license during the term of this Agreement.

6. RLF and Program Funding and Maintenance of EECDBG Funds. Town shall deposit with Administrator the initial sum of \$25,000 from the EECDBG grant trust funds made available to the Town to enable Administrator to meet the liquid cash requirements associated with the Supervised Lender License. As loans under the RLF are awarded and then funded, Administrator may request additional funding from the EECBBG funds from the Town, up to a maximum of \$400,000, so that Administrator has sufficient resources to fund loans without

undue delay. Administrator will hold all EECDBG grant funds in a segregated account for the benefit of the Town and SEI deposited in a bank or depository insured by the FDIC. The Town's source to fund the RLF or make payment to Administrator under this agreement is strictly limited to funds received from Efficiency Maine under the EECDBG grant award. In no event is or shall the Town be otherwise liable to fund the RLF, reimburse Administrator or make any payment to any third party for claims related to the Efficiency Maine program or the EECDBG; all obligations of the Town hereunder or related to the Efficiency Maine program or the EECDBG are strictly limited to funds the Town has received exclusively and solely as Grantee under the EECDBG.

7. Reporting to SEI and the Town. Administrator will provide monthly, or if necessary more frequent, financial reports to the Chair of the SEI Steering Committee and the Town which contain the following: a statement of cash on hand; a summary and update on the loans issued and outstanding including loan payments received and loans in arrears; and a reconciliation of bank account(s) used in connection with the RLF and administering the EECDBG accompanied by copies of the most current bank statements for all accounts holding program funds. If so requested, Administrator shall also provide a copy of such report to the Southern Maine Regional Planning Commission, attention of the Executive Director.

8. Reporting to Efficiency Maine. Administrator affirms that it has the qualifications and capacity to meet the reporting requirements of the EECDBG Agreement and as may be otherwise required by the American Recovery and Reinvestment Act ("ARRA"). In the event that the SEI Steering Committee in consultation with Administrator determines that additional reporting or reporting capacity is required to meet reporting requirements, Administrator will work with the entity selected by the SEI Steering Committee to provide such reporting, and will do so in a timely thorough manner. The costs of retaining additional third party assistance for additional reporting shall be borne solely by SEI and will be in addition to the Administrator's Fee as set forth below.

9. Administrator's Fee, Charges to RLF Borrowers and Responsibility for Other Charges. For the services provided by Administrator under this Agreement to the Town, the Town will pay Administrator an annual fee of \$36,000 (Administrator's Fee). Administrator's Fee does not include Administrator's legal costs incurred by Administrator as approved and incurred at the direction of the SEI Steering Committee, web development costs as approved and incurred by Administrator at the direction of the SEI Steering Committee, or other third party costs as approved and incurred at the direction of the SEI Steering Committee. Administrator shall be solely responsible for the costs of obtaining a Surety Bond and a Supervised Lenders License; those costs shall be the obligation of Administrator).

The Town will pay the Administrator's Fee according to the following schedule:

- (a) Initial payment of \$10,000, to be paid within 14 days of the date of this agreement.
- (b) Balance of eleven payments in equal installments of \$2,363.64, to be paid monthly in advance on or before the 1st of each month.

Administrator may, at its discretion, charge borrowers under the RLF reasonable application and/or annual service fees. Such fees will not exceed the amounts set forth in Administrator's proposal to SEI dated December 13, 2010 (revised December 14, 2010) or as may hereafter be approved by the SEI Steering Committee.

Administrator may seek reimbursement from the Town for legal fees and costs, web development costs or other third party costs in addition to Administrator's Fee if such costs are incurred after receiving approval, memorialized in writing, from the SEI Steering Committee.

10. Term. This Agreement is effective for twelve (12) months from the date of execution.

11. Renewal. This Agreement may be renewed by mutual agreement of the Parties. Administrator's Fee upon renewal shall be the greater of (a) \$36,000 annually, payable in equal monthly installments due in advance on the 1st of each month, or (b) 3% of the revolving loan funds under administration and/or available for lending.

12. Termination. This Agreement terminates if Efficiency Maine terminates the EECDBG Agreement with the Town. In such event, and provided grant funds are available to do so, Administrator will be paid the then balance outstanding of Administrator's Fee. This agreement may be terminated by the Town if Administrator is unable to obtain or maintain a Supervised Lenders License during the agreement term. In such event Administrator shall return Administrator Fees as have been paid by the Town to Administrator, less third party costs incurred by Administrator pre-approved by the SEI Steering Committee in connection with Administrator's application for the Supervised Lenders License. This Agreement may also be terminated in the event of Default as set forth in the Default and Remedies provisions herein.

Under the terms of the EECDBG Program and Agreement, the Town and Administrator must retain copies of records related to the RLF and administration of the grant for a period not less than three years. At termination Administrator shall either turn over the original of such records to the Town or with the consent of the Town may retain the originals and when the Town requires originals of such records the Town will reimburse Administrator for the reasonable costs of photocopying such requested original records so that Administrator may comply with the three year recordkeeping requirement.

13. Indemnification. Administrator will indemnify, defend and save harmless Efficiency Maine including, without limitation, its trustees, officers, directors, agents and employees and the Town, including, without limitation, its officers, agents and employees, from any and all claims, costs, expenses, injuries, liabilities, losses and damages of every kind and description (hereinafter in this paragraph referred to as "Claims") resulting from or arising out of the performance or non-performance of this agreement by the Administrator its employees, agents, or subcontractors. Claims to which this indemnification applies include, without limitation, the following: (i) Claims suffered or incurred by any contractor, subcontractor, materialman, laborer and any other person, firm, corporation or other legal entity (hereinafter in this paragraph referred to as "person") providing work, services, materials, equipment or supplies in connection with the performance of this agreement; (ii) Claims arising out of a violation or infringement of

any proprietary right, copyright, trademark, right of privacy or other right arising out of publication, translation, development, reproduction, delivery, use, or disposition of any data, information or other matter furnished or used in connection with this agreement; (iii) Claims arising out of a libelous or other unlawful matter used or developed in connection with this agreement; (iv) Claims suffered or incurred by any person who may be otherwise injured or damaged in the performance of this agreement; and (v) all legal costs and other expenses of defense against any asserted Claims to which this indemnification applies. This indemnification does not extend to a claim that results solely and directly from (i) Efficiency Maine's or Town's negligence or unlawful act, or (ii) action by the Administrator taken in reasonable reliance upon an instruction or direction given by an authorized person acting on behalf of Efficiency Maine, or Town or SEI in accordance with this agreement. Nothing in this agreement is intended, or shall be construed, to constitute a waiver of any defense, immunity or limitation of liability that may be available to a governmental entity, or any of its officers, agents or employees, pursuant to the Eleventh Amendment to the Constitution of the United States of America, the Maine Constitution, the Maine Tort Claims Act (14 M.R.S.A. § 8101 *et seq.*), any state or federal statute, the common law or any privileges or immunities as may otherwise be provided by law.

14. Surety Bond and Insurance.

(a) Surety Bond. Administrator, at its own cost, shall obtain and maintain during the term of this agreement a surety bond from a bond provider suitable to the Town and is suitable for to Town securing the funds made available under the EECDBG as may come into the custody and control of Administrator in the amount of \$500,000.

(b) Administrator will obtain and carry during the term of this agreement a comprehensive general liability insurance policy in a form suitable to the Town and in an amount of no less than \$1,000,000, issued by a carrier suitable to the Town. The policy will also name the Town as an additional insured. Administrator will also carry during the term of this agreement professional liability insurance with policy limits in an amount of no less than \$500,000. Administrator will provide the Town with evidence in the form of Certificates of Insurance to the Town as evidence of these insurance policies.

(c) Administrator will require all contractors approved to work under this agreement to carry a comprehensive general liability insurance policy with a minimum of \$500,000 of coverage and workers compensation insurance with coverages as required under current law, to require contractors to include Administrator and the Town as additional insureds under such policies and to require the contractors provide Administrator and the Town with certificates of insurance evidencing the same.

15. Default. The occurrence of any of the following constitutes a material default under this agreement:

- (a) The failure to make a required payment when due.
- (b) The insolvency or bankruptcy of either Party.

- (c) The subjection of any of either Party's property to any levy, seizure, general assignment for the benefit of creditors, application or sale for or by any creditor or government agency.
- (d) The failure to make available or deliver the Services in the time and manner provided for in this agreement.

16. Remedies. In addition to any and all other rights a Party may have available according to law, if a Party defaults by failing to substantially perform any provision, term or condition of this agreement (including without limitation the failure to make a monetary payment when due), the other Party may terminate this Agreement by providing written notice to the defaulting Party. The notice shall describe with sufficient detail the nature of the default. The Party receiving such notice shall have 10 days from the effective date of such notice to cure the default(s). Unless waived by a Party providing notice, the failure to cure the default(s) within such time period shall result in the termination of this agreement and the terms herein governing Termination at Paragraph 13 shall apply.

17. Force Majeure. The term "Force Majeure" for purpose of this agreement shall mean causes beyond either Party's reasonable control and include, without limitation, acts of God, fire, explosion, vandalism, storm or other similar occurrence, orders or acts of military or civil authority, or by national emergencies, insurrections, riots, or wars, or strikes, lock-outs, work stoppages. If performance of this agreement or any obligation under this agreement is prevented, restricted, or interfered with by incidents of Force Majeure, and if the Party is therefore unable to carry out its obligations hereunder and gives the other Party prompt written notice of such event, then the obligations of the Party invoking Force Majeure shall be suspended to the extent reasonably necessary by such Force Majeure event. The excused Party shall use reasonable efforts under the circumstances to avoid or remove such causes of Force Majeure and non-performance and shall proceed to perform with reasonable dispatch as best possible whenever such causes are diminished, removed or ceased. An act or omission shall be deemed within the reasonable control of a Party if committed, omitted, or caused by such Party, or its employees, officers, agents, or affiliates.

18. Arbitration. Any controversies or disputes arising out of or relating to this Agreement shall be resolved by binding arbitration. Arbitrations shall take place in accordance with the then-current Commercial Arbitration Rules of the American Arbitration Association. The process the Parties will follow in the event of dispute is for the disputing party to first notify the other Party of the dispute and to provide a summary of the same. The receiving shall provide a response in writing within ten days of receiving the notice of dispute and also provide a summary of their position. If the Parties are not able to resolve the dispute within ten days thereafter, the Parties shall then select a mutually acceptable arbitrator knowledgeable about issues relating to the subject matter of this Agreement. In the event the Parties are unable to agree to such a selection, each Party will select an arbitrator and the two arbitrators in turn shall select a third arbitrator, all three of whom shall preside jointly over the matter. The arbitration shall take place at a location that is reasonably centrally located between the Parties, or otherwise mutually agreed upon by the Parties. All documents, materials, and information in the possession of each

Party that are in any way relevant to the dispute shall be made available to the other Party for review and copying no later than 30 days after the notice of arbit Agreement or to award punitive damages. The arbitrator(s) shall have the power to issue mandatory orders and restraint orders in connection with the arbitration. The decision rendered by the arbitrator(s) shall be final and binding on the Parties, and judgment may be entered in conformity with the decision in any court having jurisdiction. The agreement to arbitration shall be specifically enforceable under the prevailing arbitration law. During the continuance of any arbitration proceeding, the Parties shall continue to perform their respective obligations under this agreement. The prevailing Party of any arbitration award shall be awarded its costs and attorney fees to be paid by the non-prevailing Party.

19. Entire Agreement. This agreement contains the entire agreement of the Parties and there are no other promises or conditions in any other agreement whether oral or written concerning the subject matter of this agreement. This agreement supersedes any prior written or oral agreements between the Parties.

20. Severability. If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions continue to be valid and enforceable. If a court finds that any provision of this agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision is deemed to be written, construed, and enforced as so limited.

21. Amendment. This Agreement may be modified or amended by mutual agreement of the Parties as evidenced in a writing signed by both Parties.

22. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Maine.

23. Notice. Any notice or communication required or permitted under this agreement shall be sufficiently given if delivered in person or by an accepted overnight mail delivery service (United States Postal Service, FEDEX, UPS, or other), or by certified mail, return receipt requested, to the address set forth in the first paragraph or to such other address as a Party furnishes to the other in writing.

24. Waiver of Contractual Right. The failure of either Party to enforce any provision of this agreement shall not be construed as a waiver or limitation of that Party's right to subsequently enforce and compel strict compliance with every provision of this agreement.

**THE TOWN OF SOUTH BERWICK
(The “Town”)**

**THE GOGGIN COMPANY
(The “Administrator”)**

By: _____

Its:

Date: _____

By: _____

Its:

Date: _____

DRAFT



State of Maine

DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION
BUREAU OF CONSUMER CREDIT PROTECTION

License # SLM11937

Be it known that
THE GOGGIN COMPANY
22 FREE ST. STE. 300
PORTLAND, ME 04101-3916
has qualified as required by 9A M.R.S.A. §2-301
and is a Licensed
SUPERVISED LENDER

ISSUE DATE
Jun 14, 2011
EXPIRATION DATE
Sep 30, 2013


William N. Lund, Superintendent

FIRST ISSUED
Apr 28, 2011

CONTRACT FOR GRANT ADMINISTRATION

Agreement made this _____ day of July, 2011 by and between the Town of South Berwick, (the Town), and Southern Main Regional Planning Commission (SMRPC) as follows:

Efficiency Maine Trust, (Efficiency Maine) an independent agency of the State of Maine is the recipient of certain federal funds under the American Recovery and Reinvestment Act of 2009. Under an Energy Efficiency and Conservation Block Grant Program (EECDBG) and related Agreement between the Town and Efficiency Maine of near or even date, Efficiency Maine has awarded the Town with funds for use as a revolving loan fund (RLF) to be used for loans to qualified property owners in the Towns of South Berwick, North Berwick, Eliot, Kittery, York and Ogunquit to make energy efficiency improvements at their residences.

Under the terms of the EECDBG and related Agreement thereto, The Town is required to provide Efficiency Maine with certain reports and audits, certifications, quarterly reports and to otherwise review the accounting and other administrative matters as the grantee under the EECDBG program. SMRPC agrees to provide such services according to the following terms and conditions:

1. The Town hereby agrees to pay SMRPC as compensation for its services the sum not to exceed \$5,000. SMRPC agrees to bill this fee to the Town in four equal quarterly installments of \$1,250 each with the first quarterly installment will be billed in September of 2011 and the three following payments to be billed in December, March and June thereafter. The Town agrees to pay SMRPC within 30 days after receipt of an invoice from SMRPC for services.
2. SMRPC acknowledges and hereby agrees that the source of funds for payments by the Town for any services provided hereunder shall be limited to such funds the Town receives under the EECDBG and further, that in the event that such EECDBG funds are not available to the Town or later become no longer available that the Town is not otherwise obligated to reimburse SMRPC for services provided hereunder.
3. SMRPC agrees to commence services under this agreement upon the date hereof and shall cease providing such services on June 30, 2012.
4. The specific services SMRPC agrees to provide to the Town are set forth in detail in Rider A to this agreement and incorporated by reference herein.

THE TOWN OF SOUTH BERWICK

SOUTHERN MAINE REGIONAL PLANNING
COMMISSION

By: Perry Ellsworth, Town Manager

By: Paul Schumacher, Director

RIDER A

Southern Maine Regional Planning Commission (SMRPC) hereby agrees to provide the following services to the Town of South Berwick in connection with the Town's oversight and administration of the Energy Efficiency and Conservation Block Grant (EECBG), secured under the American Recovery and Reinvestment Act (ARRA) and related Agreement and associated Revolving Loan Fund (RLF) as has been awarded to the Town by the Efficiency Maine Trust, and which are also subject of a contract between the Town and the Goggin Co.

1. Oversight of EECDBG reporting requirements and reporting to Maine Efficiency Trust.

SMRPC will oversee and timely submit all required reports, including quarterly reports, to the requisite authorities as are required to be made by the Town under the EECDBG and Efficiency Maine programs. SMRPC will oversee and coordinate its efforts with the Goggin Co. to ensure timely and accurate reporting.

2. Oversight of and assistance to the Town as required to meet all applicable ARRA and/or state filing and reporting requirements.

SMRPC will attend meetings as required and appropriate to enable the Town to meet its oversight responsibilities under ARRA and state standards. SMRPC will complete and timely file, on the Town's behalf, all documents required to close out the EECBG grant including the close-out packet and related filings.

SMRPC will compile and make available to the Town information on grant match requirements.

3. Assistance to the Town and Oversight of EECDBG Grant Program

SMRPC will assist the Town of South Berwick and/or the Goggin Co. in responding to questions related to oversight and administration of the EECDBG from Efficiency Maine Trust.

SMRPC, each month or more often if necessary, shall review for conformance with terms of the EECDBG the financial, performance and accounting records for the program, the RLF and loans thereunder, and any other records as necessary to understand and ensure the program is operating in accordance with the terms of the EECDBG program and related Agreement. SMRPC shall include in this review the records related to the RLF program as administered by Goggin Co. SMRPC shall provide the Town with summary reports and recommendations based on SMRPC's monthly reviews of activities under the EECDBG program.

SMRPC will also provide the Town with any additional administrative needs to assist with the oversight and administration of the EECBG program as the Town may require, including attendance of meetings of the executive committee for the Seacoast Energy Initiative as meetings if so required.



PROGRAM OVERVIEW

Eligible Properties

- Improvements must be made on residential properties located in one of the participating communities (Kittery, Eliot, York, South Berwick, Ogunquit, or North Berwick).
- The property must be occupied by the applicant, and occupied year round.

Improvements / costs eligible for financing (all improvements must be recommended by the energy auditor)

- Energy audit
- Air caulk and seal
- Chimney sealing
- Insulation (such as attic, basement, crawl spaces, walls, bulkhead door)
- Controls (programmable thermostats, energy efficient boiler controls)
- Associated improvements: ventilation fans, moisture barrier, heat recovery ventilator.
- Program costs (application fee, closing fee)

Solar Hot Water

If an applicant's home has already completed the above improvements, s/he may apply for financing for a solar hot water system. The same limits, terms, etc. apply.

Brief Overview of Loan Process

The lender under the program is the Goggin Company, on behalf of the Seacoast Energy Initiative.

Upon receipt of the Application, Authorization to Verify Income, Privacy Policy, and Household Income Form completed and signed by Applicant(s), the Program Administrator will review the information submitted and check the Borrowers FICO score. The Administrator may then issue preliminary approval, which assumes that all information provided by Borrower is correct.

All energy efficiency upgrades begin with an energy audit by an Approved, Participating Energy Advisor. At this point, the Applicant may choose to proceed with an Energy Audit or wait for completion of Pre-Approval.

Pre-approval requires receipt of all income documentation. Pre-approval (or denial) will come after the underwriting process for the borrower has been completed, and is subject to receipt of the energy audit and construction bid with costs. This process will take longer, as it requires verification of income.

Final approval follows receipt of the energy audit, work plan and costs. At this point, the loan closing can take place and Borrower may proceed with the energy efficiency improvements. The program administrator will advance up to 30% of funding to cover the cost of the energy audit and to pay for contractor deposits. The balance of the funding will be made available once the work is completed, the Energy Advisor has completed a "test out" of the improvements, and lien waivers are received.

Revolving Loan Fund

ALL INTEREST RATES, ELIGIBILITY CRITERIA AND OTHER TERMS AND CONDITIONS ARE SUBJECT TO CHANGE WITHOUT NOTICE.

1. Maximum loan amount: \$7,500. In addition, homeowner may obtain an interim loan for any anticipated rebates from Efficiency Maine.
2. All loans are unsecured.
3. Loans can be prepaid at any time without penalty. The loan is due in full if you move from the property where the improvements were made (you sell the house, you move out and rent the house, etc.)
4. Loans can be 3, 5, 7 or 10 years. The maximum loan term is 10 years.

Current Interest Rates:

3 Year Term: 3.25% (3.0% with payment via EFT)

5 Year Term: 4.25% (4.0% with payment via EFT)

7 Year Term: 5.25% (5.0% with payment via EFT)

10 Year Term: 7.50% (7.25% with payment via EFT)

5. Eligible Properties:

- Owner occupied homes.
- Located in one of the participating Maine towns: Kittery, Eliot, York, North Berwick, Ogunquit and South Berwick.
- Home must be occupied year round.
- One loan per borrower and property.

6. Eligible Improvements/Eligible for Financing:

- Energy audit.
- Sealing and air caulking.
- Chimney Sealing.
- Insulation.
- The following may be eligible, if made in connection with weatherization: moisture barrier; mechanical ventilation.
- Controls: programmable thermostats, energy conservation boiler/furnace controls.
- Program costs (application fee and closing fee).

Solar Hot Water: If a homeowner has completed the eligible improvements above, s/he may finance a solar hot water system. Financing for solar hot water is limited at this time to 10% of the funds available for loans, same loan maximum applies.

7. Eligible borrowers:

- Resident of a participating Maine community: Kittery, Eliot, York, South Berwick, Ogunquit, North Berwick.
- Borrower must be current on property taxes, utilities, and heating oil bills.
- Minimum FICO (Credit) score of 660.
- Maximum debt to income ratio of 50%.

8. After preapproval, the first step is an energy Audit by a BPI Certified, Participating Energy Advisor. The energy advisor will give the homeowner a list of recommended improvements. After the improvements are made, the auditor is required to return and verify that the work was been done and to perform a "test out."

9. Administrative Costs:

- \$25 Application Fee. This will pre-qualify you for a revolving loan so that you can retain an energy auditor and cost your improvements with the confidence of knowing that you have been pre-approved for the loan program.
- Processing fee incurred at closin: \$150.

Interested in SEI financing? Want to apply? Click on tab at left "Apply for Financing". Applications will also be made available at town halls in participating communities.



Seacoast Energy Initiative Loan Program

APPLICATION CHECKLIST

Thank you for considering the Seacoast Energy Initiative Loan Program. Attached you will find the following documents for the Loan Program. Please complete and return the following forms, along with an Application Fee of \$25. Within 30 days, we will also need the supporting documentation.

- Program Overview
- Loan Application
- Release of Information from Utilities and Heating Fuel Suppliers
- Privacy Policy
- Authorization to Verify Information

Supporting Documentation:

- Copy of W-2 form for last year for *each* borrower
- Most recent month-end pay stubs with year-to-date totals
- If income is from Social Security provide a copy of Social Security Award Letter, Copy of Monthly Check or Bank Statement Showing Deposit
- If child support is used as income, a copy of the court order
- If self-employed, please provide complete 1040 Federal tax returns, corporate tax returns for the last two years, a current profit and loss statement, and current balance sheet.

Send all information to: SEI Loan Program c/o The Goggin Company, 22 Free Street, Ste 300, Portland ME 04101. The forms may also be filled out online at www.seacoastenergy.org.

SEI Loan Program Requirements

- Unsecured.
- Property must be occupied year round. Property occupied by Borrower.
- Borrower(s) must be current on property taxes and utilities.
- Maximum loan amount \$7,500 (can be increased to fund anticipated rebate from Efficiency Maine)
- Minimum credit score of 660.
- Maximum debt to income ratio of 50%, including the SEI loan.
- Fixed Rate, varying with loan term. Borrower may select loan term of 3, 5, 7 or 10 years.
- Application Fee \$25.
- Origination Fee of \$150 payable at closing, which can be financed.

ALL RATES AND TERMS ARE SUBJECT TO CHANGE WITHOUT NOTICE

Please be prepared to provide a copy of your photo ID at the meeting with the Program Administrator in order to comply with the Patriot Act



The Goggin Company



Seacoast Energy Initiative Loan Program

LOAN APPLICATION

IMPORTANT: Read these disclosures before completing this application and check appropriate box:

If you are applying for an individual account in your own name and are relying on your own income or assets and not the income or assets of another person as the basis for repayment of the credit requested, complete the Applicant section only.

If you are applying for a joint account that you and another person will use, complete all sections, providing the information in the Co-Applicant section about the joint applicant or user.

We request joint credit: Applicant (initial) _____ Co-applicant (initial) _____

If you are applying for an individual account but are relying on income or assets of another person as the basis for repayment of the credit requested, please provide information in the Co-signer section about the person whose income or assets you are relying.

Important Information about Procedures for Opening a New Account/Loan

To help our government fight the funding of terrorism and money-laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you is that prior to "opening an account" (and "account" includes a loan), we will ask for your name, address, date of birth, and other information that will allow us to identify you. At closing, we may also ask to see your driver's license or other identifying documents.

APPLICANT

_____	_____	_____
<i>Last</i>	<i>First</i>	<i>Middle</i>
_____	_____	_____
<i>Street</i>	<i>Town</i>	<i>State & Zip Code</i>
_____	____/____/____	
<i>Applicant's Social Security Number</i>	<i>Applicant's Birthday</i>	
_____	_____	_____
<i>Home Phone Number</i>	<i>Mobile</i>	<i>Work</i>
<i>Please put a mark next to the phone number which is best for reaching you</i>		

CO-APPLICANT

_____	_____	_____
<i>Last</i>	<i>First</i>	<i>Middle</i>
_____	_____	_____
<i>Street</i>	<i>Town</i>	<i>State & Zip Code</i>
_____	____/____/____	
<i>Applicant's Social Security Number</i>	<i>Applicant's Birthday</i>	
_____	_____	_____
<i>Home Phone Number</i>	<i>Mobile</i>	<i>Work</i>
<i>Please put a mark next to the phone number which is best for reaching you</i>		

Applicant:

Sources of Income

Employed? Yes No

If yes, Name of Employer _____ Position _____

Address _____ Phone _____

Years worked for this employer _____ Gross monthly _____

Previous employer (if less than 2 years at _____ Position _____

Address _____ Phone _____

Other Income sources (pension, social security, investment, etc)(does not need to be revealed if you are not relying on this income for eligibility)

Type (example: pension)	Monthly income

Have you ever declared bankruptcy? Yes No If yes, year declared: _____

Obligations

Do you have a mortgage? Yes No If so name of lender: _____

Balance _____ Monthly Payment: _____

Does the monthly payment include property Yes No

If no, estimated annual amount of property taxes: _____

Does the monthly payment include property/homeowners insurance? Yes No

If no, estimated annual amount of insurance: _____

Do you have a home equity loan or line of credit? Yes No

If yes: Balance _____ Monthly payment : _____

Are you obligated to pay child support or alimony? _____ If yes, monthly amount _____

Other debts:

Type (ex auto)	Lender	Balance	Monthly Pmt

Co-Applicant:

Sources of Income

Employed? Yes No

If yes, Name of Employer _____ Position _____

Address _____ Phone _____

Years worked for this employer _____ Gross monthly _____

Previous employer (if less than 2 years at _____ Position _____

Address _____ Phone _____

Other Income sources (pension, social security, investment, etc)(does not need to be revealed if you are not relying on this income for eligibility)

Type (example: pension)	Monthly income

Have you ever declared bankruptcy? Yes No If yes, year declared: _____

Obligations

Do you have a mortgage? Yes No If so name of lender: _____

Balance _____ Monthly Payment: _____

Does the monthly payment include property Yes No

If no, estimated annual amount of property taxes: _____

Does the monthly payment include property/homeowners insurance? Yes No

If no, estimated annual amount of insurance: _____

Do you have a home equity loan or line of credit? Yes No

If yes: Balance _____ Monthly payment : _____

Are you obligated to pay child support or alimony? _____ If yes, monthly amount _____

Other debts:

Type (ex auto)	Lender	Balance	Monthly Pmt

Are you current on your property taxes? Yes _____ No _____

Are you current on your water & sewer charges? Yes _____ No _____

Are you current on your electricity and heating oil charges? Yes _____ No _____

If no to any of the above, please explain: _____

PROPERTY ELIGIBILITY (for the property where the improvements will be made)

Is this your residence? Yes _____ No _____

Is this property occupied year round? Yes _____ No _____

Is this property a single family residence? Yes _____ No _____

Do you own this home? Yes _____ No _____

What year did you purchase your home? Yes _____ No _____

What year was your home built? Yes _____ No _____

Has there been an energy audit on your home? If yes, please provide information below. If you don't know, or there has been no audit, write NA in the boxes below. If there hasn't been an energy audit on this property yet, please wait to have an energy audit done if you intend to pursue financing with this loan program, as you will be required to use a participating energy auditor to qualify for financing.

Date of Energy Audit: _____

Name of Energy Auditor: _____

Do you have a copy of the Energy Audit? _____

Have you made any improvements since the energy audit? _____

If yes, please describe: _____

ENERGY USAGE INFORMATION

If not applicable, leave blank or write NA. We have given two spaces for heating oil as some people buy from more than one company. The additional space at the end is for other sources (kerosene, natural gas, additional heating oil provider, etc.)

Fuel	Provider	Acct No	Phone #	Unit	Most recent 12 months
Electricity	CMP			Kilowatt hours	
Propane				Gallons	
Heating Oil				Gallons	
Heating Oil				Gallons	
Wood				Cords	

I/We certify that all statements on this application are true and complete. I/We authorize The Goggin Company to make any credit inquiries necessary to process this application, to review the performance of this account, or to collect any credit extended to me/us. Any credit investigation and information furnished to The Goggin Company by any person, organization, or consumer reporting agency is hereby authorized by me and whether approved or not, this application will remain the property of The Goggin Company. If this is a joint application, each applicant will at all times be separately liable for the full amount.

X _____ Date _____ X _____ Date _____
Applicant Name Co-Applicant Name

This application was made via: Mail/fax _____ Web site/ email _____ In Person _____

PLEASE CONTINUE
AND FILL OUT
"Authority to Verify"
And
"Release of Information from Utilities and Heating Oil Suppliers"

Authority to Verify Information

I/we authorize The Goggin Company, in connection with my application to the Seacoast Energy Initiative Loan Program, to verify my bank accounts, employment, outstanding debts, present or previous mortgages, current resident, to order a consumer credit report, and to make any other inquiries pertaining to my qualification for a mortgage loan.

My/our signature(s) below authorize any credit reporting agency to release information in their possession to The Goggin Company, for the purpose of determining eligibility for financing. This information includes, but is not limited to, information regarding income, credit debt or other information either received from us or gathered from other sources.

I hereby authorize Lender or any successor lender, or any loan servicer selected by Lender, to release certain information related to the Program's own credit experience with me to any consumer credit agency. Information which may be released includes but is not limited to:

Original Loan Amount	Monthly Payment	Current Balance
Payment Due Date	Amount Past Due	Payment History

Authorization is further granted to The Goggin Company, successor lender, servicing company or credit-reporting agency to use a photo static reproduction of this form, if required, to obtain any information necessary to complete my consumer credit report and determine my financial status.

Privacy Act Notice: This information is to be used by the agency collecting it or its assignees in determining whether you qualify as a prospective borrower under this program. It will not be disclosed outside the agency except as required and permitted by law or as authorized above.

I/we fully understand that it is a Federal crime punishable by fine or imprisonment or both to knowingly make any false statements concerning any of the above facts as applicable under the provisions of Title 18, United States Code, Section 1001, et seq.

Applicant/Borrower Signature *Date* *Applicant/ Borrower Social Security #*

Co-Applicant/Borrower Signature *Date* *Applicant/Co-Borrower Social Security #*

Release of Information from Utilities & Heating Fuel Suppliers

Date:

To Whom It May Concern:

I/we, _____, hereby agree that The Goggin Company may access our utility and heating fuel supply information.

If so requested by The Goggin Company, please supply a history of our energy consumption and payment history to The Goggin Company.

Sincerely,

Name

Name

The Goggin Company

Truth-In-Lending Disclosure Statement

(This is neither a contract nor a commitment to lend)

Lender: The Goggin Company Date: //
 Program Name: Seacoast Energy Initiative Loan Program Loan Number: 1104SEI000002
 Borrower: Public, Suzie Q.
 Co-Borrower: Dean, John A.
 Address: 411 Main Street Yorktown ME 00000

TERM IN MONTHS		SIMPLE INTEREST RATE	
120		4.990%	
ANNUAL PERCENTAGE RATE (APR) The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you on your behalf	Total of Payments The amount you will have paid after you have made all payments as scheduled
5.505%	\$2,216.65	\$7,325.00	\$9,541.65

No of Payments	119	Payment (Principal & Interest)	79.51
No of Payments	1	Payment (Principal & Interest)	79.96
Application Fee	25.00	Loan Amount	\$7,500.00
Process Fee	150.00	Less Fees	175.00
Total Fees	\$175.00	Amount Financed	\$7,325.00

Late Charge: If a payment is more than 5 days late, you will be charged a late fee equal to the greater or 5% of the late payment or **\$29.00**, but in no event will you be charged a late charge greater than that permitted by law.

Prepayment: This loan may be prepaid at any time without penalty. In the event that you do prepay this loan, you will not receive a refund of all or any portion of the Fees.

You are not required to complete this agreement merely because you have received these disclosures or signed a loan application. The undersigned hereby acknowledge(s) reading and understanding of the information disclosed above, and receiving a completed copy of this disclosure on the date indicated below.

Read, acknowledged and accepted this ____ date of _____

Prepared by: Ann C. Goggin

 Borrower Suzie Q. Public

 Co-Borrower John A. Dean



The Goggin Company

Seacoast Energy Initiative Loan Program

PRIVACY POLICY

Protecting your private information is important to The Goggin Company, Program Administrator for Seacoast Energy Initiative and Lender under the Seacoast Energy Initiative Loan Program. This notice is to describe our policy regarding the collection and disclosure of personal information.

The Goggin Company does not provide or share any personal information with commercial companies for the purpose of marketing their products to you.

WHAT INFORMATION WE COLLECT

Personal information means information that identifies an individual and is not otherwise publicly available information. This includes personal financial information, such as credit history, income, employment history, financial assets, bank account information, financial debts, Social Security Number, and any other information that you provide on a Personal or Loan Application.

We collect the information in order to provide qualify or disqualify you for the Seacoast Energy Initiative Loan Program. If we feel it would be helpful to you, we may also advise you as to whether you may qualify for other energy efficiency loan programs or incentives.

RESTRICTION ON DISCLOSURE OF PERSONAL INFORMATION

In general, The Goggin Company discloses personal information only when necessary to provide services to you or when allowed by law.

We may disclose the following kinds of personal information about you:

- Information we receive from you on applications for a loan or other product or service, such as name, address, telephone number, social security number, assets and income.
- Information about your transactions with us, such as your loan balance, payment history, and parties to your transactions.
- Information we receive from third parties, such as credit bureaus, including information about your credit worthiness and your credit history.

We may disclose your personal information to the following types of unaffiliated third parties:

- Financial service providers, such as companies engaged in providing home mortgage, reverse mortgages, or home equity loans.
- Other third party service providers when the information is provided to help complete a transaction initiated by you, such as reporting a payoff on a loan, or to otherwise administer our business.
- Other third parties involved in program review, auditing, research or oversight purposes.



- A third party that may purchase your loan individually or as part of a portfolio of loans, or as part of the due diligence for any such third party for such a loan purpose.

We may disclose personal information about you to third parties as permitted by law, such as auditors in connection with a financial audit or us, to government entities, in response to subpoenas, and to credit bureaus.

IF YOU WANT MORE INFORMATION

If you have any questions or want more information regarding our Privacy Policy, please contact Ann C. Goggin, President, The Goggin Company via mail at 22 Free Street, Suite 300, Portland ME 04101; via email at acg@goggin.net; or via telephone at 207-772-7557.

I/we have received a copy of The Goggin Company's Privacy Policy.

Borrower Signature X _____ Date _____

Co-Borrower Signature X _____ Date _____

SAMPLE



Seacoast Energy Initiative



CONSTRUCTION ESCROW AGREEMENT

This agreement is made the ____ day of _____, 20__, by and between [BORROWER], "Borrowers", and The Goggin Company ("Lender") on behalf of the Seacoast Energy Initiative.

Purpose of the Construction Escrow

Lender offers construction escrow account services (escrow) in order to assure that funds intended solely for energy efficiency improvements and related activities are used as intended. The escrow account is a required condition of energy efficiency loans offered by Lender.

WHEREAS, Borrower has received \$[amount] (the "construction funds") for the accomplishment of certain energy efficiency improvements on the residence located at [address] and which improvements are more particularly described in Exhibit A, attached hereto and incorporated herein by reference.

All proceeds to be used for rehab are "paid to the order of Goggin Company Construction Escrow Account" and deposited into an account for the specific purpose of managing construction escrow accounts.

WHEREAS the improvements were financed in the amount of \$[amount] by The Goggin Company and/or

WHEREAS the Borrower has provided \$[amount] to be used as part or all of the improvement funds.

1. The Borrower agrees that all improvements on Exhibit A shall be completed by ____, 2011. Failure to do so will constitute default under the terms of the note used to finance all or part of the improvements. Any extension must be agreed to in writing by Lender. Any funds remaining in escrow at that time will be paid against the principal balance due Lender.
2. The Borrower has paid over to Lender, and Lender has acknowledged receipt of those funds.
3. There is no fee to be charged for the escrow service, and no interest is or will be paid on the existing balance in the escrow account.
4. All disbursements from the escrow account must be supported by a requisition request signed by Borrower, The Lender, and the Contractor who completed the improvements, indicating what improvements have been completed, specifying the dollar amount requested, and including a waiver of mechanic lien by the Contractor.
5. If there are cost overruns, the Borrower is responsible for the additional cost. If there are insufficient funds in the improvement escrow account to finish all the improvements, Lender will work with the Borrower to determine which improvements can be eliminated in order to waiver completion of any of the improvements in Exhibit A. If Lender declines the waiver, the Borrower will be required to pay the remaining costs. Failure to do will constitute default under the terms of any note used to fund all or part of the improvements.

Upon completion of all improvements, and at Interim periods as deemed necessary, the Lender or the Energy Advisor shall inspect the site to determine if all improvements have been made in a workmanlike manner. After receipt and approval of a "test out" report and all required documentation from the Energy Advisor indicating that all improvements have been made and completed in a workmanlike manner, Lender shall thereafter disburse the remaining improvement funds to the appropriate parties. There shall be two disbursements: once for the initial deposit due to the contractor, and the balance at the completion of the job.

Borrower and Lender hereby agree that any excess funds remaining in the escrow account, after payment of all of the cost of all improvements and costs in Exhibit A, shall be applied to the principal of the loan.



Seacoast Energy Initiative



CONSTRUCTION ESCROW AGREEMENT

Any incentives obtained through Efficiency Maine will be used to pay down Borrower's loan principal, and any such incentive shall be endorsed over to Lender and forwarded to Lender for such purpose immediately upon receipt from Efficiency Maine.

Borrower agrees to hold harmless and indemnify Lender and its employees, officers, and directors, and the Town of Kittery and the Seacoast Energy Initiative Steering Committee, in connection with acts performed by them which would reasonably be associated with any consultation, technical advice, financial counseling, loan processing, property inspection, project oversight, lack of realization of any anticipated energy savings, and from any latent or patent defects in any construction work performed as part of this project.

Borrower acknowledges receipt of an executed copy of this agreement.

Borrower _____ Date _____

Co-Borrower _____ Date _____

Lender _____ Date _____

SAMPLE



SEACOAST ENERGY INITIATIVE Q&A

www.seacoastenergy.org

WHAT IS THE SEACOAST ENERGY INITIATIVE? The Seacoast Energy Initiative (“SEI”) is a consortium of six towns in Southern York County that successfully won a \$500,000 grant from Efficiency Maine to help local residents improve the energy efficiency of their homes, reduce their dependence on imported home heating oil and support local jobs and small businesses recover from the economic recession.

The Program is supervised by the Seacoast Energy Initiative (SEI) Steering Committee, which is made up of representatives from the six participating communities. All members of the Steering Committee were appointed by their respective Town Council, Board of Selectmen or Town Administrator/Manager.

The program offers low interest energy efficiency loans to qualifying local homeowners, thereby reducing the upfront cost of energy efficiency improvements, one of the barriers to taking action.

WHICH COMMUNITIES ARE PART OF THE SEACOAST ENERGY INITIATIVE? The towns of Kittery, Eliot, York, South Berwick, Oquonquit and North Berwick (KEYSON region). If you live in a southern Maine community other than these towns and would like to bring this program to your town, please contact us at info@seacoastenergy.org.

WHERE DOES THE FUNDING FOR THIS PROGRAM COME FROM? The funding comes from a \$500,000 grant from the US Dept of Energy. It is part of the ARRA (American Reinvestment and Recovery Act) funding, which was enacted by Congress to help the nation recover from the recession. The purpose of the grant is both to help the region become more energy efficient and energy secure, and create local jobs in the weatherization/energy efficiency industry. You will always know when a program is funded by ARRA when you see this logo:

WHAT ARE THE LOAN TERMS? A borrower may select from a 3, 5, 7 or 10 year term. The shorter the term, the lower the rate. This is so that we can re-loan this money as quickly as possible to help more homeowners improve their energy efficiency. Current interest rates range from 3%-7.5% depending on the length of the loan and must be repaid if you sell or no longer occupy your homes. **All terms are subject to change. Please consult the website for current interest rates.**

Program Administrator: The Goggin Company, 22 Free Street, Ste 300, Portland ME 04101



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SEACOAST ENERGY INITIATIVE Q&A

www.seacoastenergy.org

ARE THERE ANY COSTS OR FEES? There is a \$25 non-refundable application fee, and a \$150 closing fee which will be added to your loan amount at time of loan closing. You will need an energy audit, for which you receive reimbursement up to \$250 if your application is accepted and a scope of work/cost proposal from an approved contractor, for which you should not be charged.

WHO IS ELIGIBLE FOR THE LOAN PROGRAM? The property must be a) located in a participating community; b) occupied year round; and c) must not be a condo or rental. The borrower must be a) the owner or owners of the qualifying property; b) meet minimum credit score requirements and maximum debt to income ratios c) occupy the home year round. Loans are issued on a first-come-first-serve basis to residents of the six KEYSON communities.

HOW DO I APPLY? Go to our website www.seacoastenergy.org and fill out a survey on your home and energy use, as well as a loan application form. Submit all forms and the \$25 application fee to the address on the loan form.

WHERE CAN I GET AN APPLICATION? Forms will be available on line and at the town halls of the participating communities.

DO I NEED AN ENERGY AUDIT? Yes. If you have already had an energy audit on your home, you can submit it and if it meets our criteria we will ask your auditor to become a Participating Contractor. If you have not already had an energy audit, please apply to the loan program first. That way you will know before you spend money on an energy audit if you qualify for the program. In keeping with State of Maine policies, we require all energy auditors to be BPI certified (a third party rating agency for energy auditors).

Program Administrator: The Goggin Company, 22 Free Street, Ste 300, Portland ME 04101



rev 070711b



SEACOAST ENERGY INITIATIVE Q&A

www.seacoastenergy.org

WHAT IS AN ENERGY AUDIT AND WHY IS IT REQUIRED? To quote from the US Dept of Energy website: “A home energy assessment, also known as a home energy audit, is the first step to assess how much energy your home consumes and to evaluate what measures you can take to make your home more energy efficient. An assessment will show you problems that may, when corrected, save you significant amounts of money over time. During the assessment, you can pinpoint where your house is losing energy. Energy assessments also determine the efficiency of your home's heating and cooling systems. An assessment may also show you ways to conserve hot water and electricity.”

While it is true that you can perform a simple energy assessment yourself, SEI requires that you have a third party energy audit by a BPI certified professional and an approved scope of work recommended by that auditor before we will loan funds to do that work. Participating contractors who are energy auditors have passed a certification administered by the Building Professional Institute (BPI). An energy audit by a BPI certified auditor is also required to qualify for any incentives or rebates by Efficiency Maine Trust (the State's energy efficiency agency).

WHY DO I NEED TO USE A PARTICIPATING CONTRACTOR? These contractors have signed a contract with the program, have provided proof of insurance, and have provided a copy of their professional credentials. It also helps us track which contractors are providing excellent service and satisfaction and will help us work with contractors to deliver quality work to loan recipients.

HOW MUCH DOES AN ENERGY AUDIT COST? The cost will be approximately \$500, payable upfront to the energy auditor (although some will take a portion at the time of the energy audit, and the balance at the “test out” after the work is complete and the energy auditor returns to verify that the work has been properly done). If you receive an SEI Loan you will receive a credit of \$250 towards the cost of the energy audit.

CAN I FINANCE THE COST OF THE ENERGY AUDIT? All costs associated with the energy efficiency improvements such as the energy audit, the application fee and closing costs can be included into the loan, subject to the maximum loan amount. Remember, however, that the energy auditor will typically require payment upfront before the loan is closed.

Program Administrator: The Goggin Company, 22 Free Street, Ste 300, Portland ME 04101



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SEACOAST ENERGY INITIATIVE Q&A

www.seacoastenergy.org

I WANT TO DO THE IMPROVEMENTS MYSELF. CAN I FUND THE MATERIAL COST THROUGH THE LOAN PROGRAM? No. You must use a Participating Contractor for all work.

WHAT IS THE DIFFERENCE BETWEEN AN SEI LOAN AND A PACE LOAN? SEI loans are unsecured; due at the time you sell or move from your home; designed and administered at the local level; have a maximum loan amount of \$,7500. SEI Loans are primarily for weatherization and electronic controls that will make your current heating system operate more efficiently. The SEI Loan Program does not fund new boilers or furnaces. 10% of the loan funds are reserved for financing solar hot water systems in homes that have met a reasonable degree of weatherization.

A PACE loan is secured by a mortgage on your home; does not need to be paid off when you vacate or you sell your home; provides up to \$15,000 to allow for “deeper” retrofits; does not increase the loan amount to cover anticipated rebates; is administered by at the state level; requires that the property be in a community which has approved a PACE ordinance (currently South Berwick and York of the six KEYSON towns).

You can combine an SEI loan with a PACE loan.

WHERE CAN I GET MORE INFORMATION ON SEI AND THE SEI LOAN PROGRAM? You can visit our web site at www.sei.org. We encourage you to complete the survey on your home’s condition and energy consumption, even if you not interested in applying for a loan at this time. Thei information we collect will help us better understand the energy needs of our community, and may help to attract additional funding that will allow the program to grow. Please check the website often, we will be adding information on other programs and incentives.

LOAN FUNDS ARE LIMITED, SO IF YOU ARE EVEN JUST PONDERING SOME ENERGY EFFICIENCY IMPROVEMENTS AND THINK THAT YOU MIGHT NEED SOME FINANCING TO ASSIST YOU IN DOING SO, PLEASE GET IN TOUCH WITH US AS EARLY IN YOUR THOUGHT PROCESS AS POSSIBLE.

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