

GRANT COOPERATIVE AGREEMENT

FINANCIAL ASSISTANCE AWARD

ACCOUNTING CODE

RECIPIENT NAME
Rapid City Economic Development Foundation

AWARD NUMBER
05-01-03948

RECIPIENT NAME
City of Rapid City

STREET ADDRESS
444 N. Mount Rushmore Road

FEDERAL SHARE OF COST
\$750,000

CITY, STATE, ZIP CODE
Rapid City, South Dakota 57701-0747

RECIPIENT SHARE OF COST
\$1,600,000

AWARD PERIOD
Date of Approval to 30 months after Date of Approval

TOTAL ESTIMATED COST
\$2,350,000

AUTHORITY: 42 U.S.C. 3121, et. seq, as amended by the Economic Development Administration Reauthorization Act of 2004, Pub. L. No.108-373

CFDA NO. AND PROJECT TITLE: 11.300/Public Works and Development Facilities/Construction of a Technology Incubation Facility on the Campus of the South Dakota School of Mines & Technology

This Award approved by the Grants Officer is issued in triplicate and constitutes an obligation of Federal funding. By signing the three documents, the Recipients agree to comply with the Award provisions checked below, and attached. Upon acceptance by the Recipient, two signed Award documents shall be returned to the Grants Officer and the other document shall be retained by the Recipients. If not signed and returned by the Recipients within 30 days of receipt, the Grants Officer may unilaterally terminate this award.

- Department of Commerce Financial Assistance Standard Terms and Conditions
- Special Award Conditions
- Line Item Budget
- 15 CFR Part 14, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, Other Non-Profit and Commercial Organizations
- 15 CFR Part 24, Uniform Administrative Requirements for Grants and Agreements with State and Local Governments
- OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments
- OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations
- OMB Circular A-21, Cost Principles for Educational Institutions
- OMB Circular A-122, Cost Principles for Nonprofit Organizations
- Other(s):

SIGNATURE OF DEPARTMENT OF COMMERCE GRANTS OFFICER


Robert L. Turner for Robert E. Olson


TITLE

Regional Director

DATE

March 2, 2005

FINANCIAL ASSISTANCE AWARD

TYPED NAME AND SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL Patrick Burchill 	TITLE President, Rapid City Economic Development Foundation	DATE 3/23/2005
TYPED NAME AND SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL Jim Shaw	TITLE Mayor, City of Rapid City	DATE

NONDISCRIMINATION REQUIREMENTS

The Recipient agrees to comply with Title VI of the Civil Rights Act of 1974 (42 U.S.C. 2000d et seq.) prohibiting discrimination under Federally assisted programs on the grounds of race, color, or national origin and Department of Commerce regulations implementing Title VI (15 CFR Part 8); Title IX of the Education Amendments of 1972, as amended, (20 U.S.C. 1681 et seq.) prohibiting discrimination on the basis of sex in Federally assisted education programs or activities; 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) prohibiting discrimination under any program or activity receiving Federal financial assistance on the basis of handicap and Department of Commerce regulations implementing Section 504 (15 CFR Part 8b); the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.) prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance and Department of Commerce regulations implementing the Act (15 CFR Part 20); Part III of Executive Order 11246 (30 F.R. 12319, September 25, 1965) as amended by Executive Order 11375 (32 F.R. 14303, October 17, 1967) requiring Federally assisted construction contracts to include the provisions of 203 of the Executive Order and the regulations of the Department of Labor implementing the Executive Order with which the Department of Commerce and its recipients must comply (41 CFR 60-1.4(b)); any other regulations implementing these statutes and orders.

EXHIBIT "A"

U.S. DEPARTMENT OF COMMERCE
Economic Development Administration

Public Works and Development Facilities

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RECIPIENT: **Rapid City Economic Development Foundation
and the City of Rapid City
Pennington County, South Dakota**

Award No. 05-01-3948

SPECIAL AWARD CONDITIONS

PROJECT DESCRIPTION: The project will construct a 60,000 sq. ft. technology incubator and business center on the campus of the South Dakota School of Mines & Technology.

1. **PROJECT DEVELOPMENT TIME SCHEDULE:** The Recipient agrees to the following Project development time schedule:

Time allowed after approval of Financial Assistance Award for:

Project Start12 months
Project Completion..... 18 months

Project Closeout - All Project closeout documents including final financial information and any required program reports shall be submitted to the Government not more than 90 days after the date the Recipient accepts the completed Project from the contractor(s).

The Recipient shall pursue diligently the development of the Project so as to ensure completion of the Project and submission of closeout documents within this time schedule. Moreover, the Recipient shall notify the Government in writing of any event which could delay substantially the achievement of the Project within the prescribed time limits. The Recipient further acknowledges that failure to meet the development time schedule may result in the Government's taking action to terminate the Award in accordance with the regulations set forth at 13 CFR 305.99(b) and 15 CFR 24.43 (53 Fed. Reg. 8048-9, 8102, March 11, 1988).

2. **GOALS FOR WOMEN AND MINORITIES IN CONSTRUCTION:** Department of Labor regulations set forth in 41 CFR 60-4 establish goals and timetables for participation of minorities and women in the construction industry. These regulations apply to all Federally assisted construction contracts in excess of \$10,000. The Recipient shall comply with these regulations and shall obtain compliance with 41 CFR 60-4 from contractors and subcontractors employed in the completion of the Project by including such notices, clauses and provisions in the Solicitations for Offers or Bids as required by 41 CFR 60-4.

The goal for the participation of women in each trade area shall be as follows:

from April 1, 1981, until further notice: 6.9 percent

All changes to this goal, as published in the Federal Register in accordance with the Office of Federal Contract Compliance Programs regulations at 41 CFR 60-4.6, or any successor regulations, shall hereafter be incorporated by reference into these Special Award Conditions.

Goals for minority participation shall be prescribed by Appendix B-80, Federal Register, Volume 45, No.194, October 3, 1980, or subsequent publications. The Recipient shall include the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" (or cause them to be included, if appropriate) in all Federally assisted contracts and subcontracts. The goals and timetables for minority and female participation may not be less than those published pursuant to 41 CFR 60-4.6.

3. **DISCLOSURE OF FEDERAL PARTICIPATION:** No amount of this award shall be used to finance the acquisition of goods or services (including construction services) for the project unless the Recipient agrees to:
 - a. specify in any announcement of the awarding of the contract for the procurement of the goods or services involved (including construction services) the amount of Federal funds that will be used to finance the acquisition; and
 - b. express the amount announced pursuant to paragraph (a) as a percentage of the total cost of the planned acquisition.

The foregoing requirements shall not apply to a procurement for goods or services (including construction services) that has an aggregate value of less than \$500,000.

4. **RECIPIENT AFFIRMATION OF AWARD:** This Financial Assistance Award, subject to the other Special Conditions and the Standard Terms and Conditions, shall constitute an obligation to make such Award. If the Recipient fails to affirm its intention to use the Award in accordance with the terms and conditions of this Financial Assistance Award, it will be terminated without further cause. By signing and returning the original Award documents, **within thirty (30) days of receipt**, the Recipient affirms that it intends to use the Award in accordance with the terms and conditions as above-referenced.
5. **LOCAL SHARE:** In affirming this Award, the Recipient certifies that the non-federal share of project costs is committed and is available as needed for the project, that the non-federal share is from sources which can be used as match for the EDA project, and that the non-federal share will not affect ownership of, or title to, the project facilities. The Recipient further acknowledges that, prior to award of any construction contracts, it will be required to provide evidence satisfactory to the Government that all funds necessary to complete the project are available.

SPECIAL CONDITIONS

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5. **REPORT ON UNLIQUIDATED OBLIGATIONS:** All Recipients of an EDA grant award of more than \$100,000, whose grant has not been fully disbursed as of the end of each reporting period, are required to submit a financial report to EDA, annually, on the status of un-reimbursed obligations. The report will provide information on the amount of allowable project expenses that have been incurred by the Recipient, but not claimed for reimbursement as of the end of the reporting period. The report will be as of September 30 of each year and must be submitted annually until the final grant payment is made by EDA. The report shall be submitted to EDA no later than October 30 of each year. Noncompliance with this requirement will result in the suspension of EDA grant disbursements. Standard Form 269A, Financial Status Report, will be used for this purpose. Instructions for completing and filing the report will be furnished to the Recipient at least 60 days before the report is due.
6. **ARCHITECT/ENGINEER AGREEMENT:** Prior to the disbursement of funds by EDA, the Recipient must submit to the Government for approval, an Architect/Engineer Agreement which meets the requirements of Section I of the EDA publication, "Requirements for Approved Construction Projects", as well as the competitive procurement standards of 15 CFR Part 24 or 15 CFR Part 14, as applicable. The fee for basic Architect/Engineer services will be a lump sum or an agreed maximum, and no part of the fees for other services will be based on a cost-plus-a-percentage-of-cost or a cost using a multiplier.
7. **PERFORMANCE MEASURES:** The Recipient agrees to report on core program performance measures and project outcomes in such form and at such intervals as may be prescribed by EDA, in compliance with the Government Performance and Results Act of 1993. Performance measures and reporting requirements that presently apply to program activities funded by this investment will be provided in a separate GPRA information collection document. EDA will advise the Recipient, in writing within a reasonable period, prior to the time of submission of the reports, and in the event that there are any modifications in the performance measures.
8. **START OF PROJECT:** If significant development of plans and specifications (as determined by EDA) is not commenced within two years of approval of the project, or by the date estimated in the grant application (or the expiration of any extension granted, in writing, by EDA), whichever is later, the EDA grant will be automatically suspended and may be terminated if EDA determines, after consultation with the Recipient, that completion cannot be expected to proceed promptly and expeditiously.

9. **TITLE:** Prior to the disbursement of funds, the Recipient shall provide evidence, satisfactory to EDA, that the Recipient has acquired good and merchantable title, free of all mortgages or other forecloseable liens, to all land, easements and rights-of-way necessary for the completion of the project.
10. **FIRST PRIORITY LIEN:** The Recipient expressly agrees to grant to the Government, prior to final Award disbursement, a lien against, or security interest in, the property acquired or improved, in whole or in part, with the funds made available through this Award. This lien or security interest must be perfected in accordance with local law.

The Recipient further agrees that, in the event that it alienates in any manner, any interest in the real property acquired or improved with EDA Award funds, the Government shall be entitled to recover damages. EDA's regulation at 13 CFR; Part 314 provides that, upon disposition of property acquired or improved with EDA Award funds, the Government shall be entitled to a recovery based upon the ratio of the percentage of the Government's participation in the total cost of the Project to the fair market value of the property at the time of disposition. For purposes of the lien, the amount of the Government's damages shall be the full amount of the EDA Award, plus interest from the date of the disposition.

This lien must remain in effect through the useful life of the Project, which the Government has determined to be twenty (20) years, as defined in 13 CFR; Part 314.

Alienation shall include but not be limited to sale, lease, rent, option, or mortgage, with the exception of those leases or rental agreements which the Government approves, in writing, for tenant space in the project facilities.

11. **NPDES PERMIT/AIR QUALITY:** Prior to the start of construction, the Recipient shall provide evidence, satisfactory to EDA, that an NPDES Permit and an Air Quality Permit have been obtained for the project.
12. **ARCHEOLOGICAL DISCOVERIES:** If, during construction of the project, any bones, artifacts, foundations or other indications of past human occupation of the area are discovered, the Recipient shall immediately notify EDA and the State Historic Preservation Officer (SHPO), and follow the SHPO's advice for preservation of the archeological resources.

PUBLIC WORKS PROJECT COST CLASSIFICATIONS

EDA Award No. 05-01-03948 State South Dakota County Pennington

<u>Cost Classification</u>	<u>Proposed</u>	<u>Approved</u>
Administrative & legal expenses	\$0	\$10,000 (1)
Land, structures, right-of-way, appraisals, etc.	250,000	250,000
Relocation expenses & payments	0	100 (2)
Architectural & engineering fees	90,392	90,392
Other Architectural & engineering fees	6,000	6,000
Project inspection fees	16,000	16,000
Site Work	0	0
Demolition and removal	0	0
Construction	1,918,308	1,918,308
Equipment	0	0
Miscellaneous	0	0
Contingencies	<u>69,300</u>	<u>59,200</u> (3)
TOTAL PROJECT COSTS	\$2,350,000	\$2,350,000

Remarks:

- (1) Added to open line item.
- (2) Added to open line item.
- (3) Adjusted to reflect revised budget.