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DEPT. OF ENVIRONMENTAL QUALITY
WASTE PROGRAM

INTERAGENCY AGREEMENT Beasley Site Cleanup Project

This Interagency Agreement ("Agreement") is entered into by the State of Idaho Department of Environmental Quality ("Department") and the Salmon River Development Agency ("SRDA"), an independent public body cooperative and politic. Together the Department and SRDA shall be referred to as the Parties.

1. PURPOSE The purpose of this Agreement is to delineate the sharing of costs and describe the roles and responsibilities of the Department and SRDA with respect to assessment and future cleanup activities at the former Beasley site located at 205 North Main Street, Salmon, Idaho 83467 ("Property").

2. BACKGROUND SRDA was awarded an EPA Brownfields Cleanup Grant ("Grant") in the amount of \$200,000 for the cleanup of the Property. Assessment of the site initially began in February 2006. Cleanup activities carried out pursuant to the original assessment and cleanup Work Plan have proven unsuccessful. The Parties wish to conduct a new assessment of the Property and implement an alternate cleanup methodology.

The contractor that performed the original assessment and previously presided over cleanup efforts at the Property is no longer a Department retained environmental contractor. SRDA and the Department enter into this Agreement in order to utilize a Department retained environmental contractor for the new assessment and future cleanup activities at the site, and to delineate how the Parties intend to share the costs of those activities.

3. WORK TO BE PERFORMED Subject to the terms and conditions set forth in this Agreement, the Parties will conduct specified assessment and cleanup actions at the Property using a Department retained environmental contractor.

Assessment

Under the Department's direction, the Department contractor will prepare and submit documents proposing an assessment protocol. The Department will review and recommend approval (or disapproval) of the proposed protocol. Subject to final approval by the SRDA, the Department will issue a task order to the Department contractor to implement the assessment protocol. The Department contractor will implement the task order and invoice the Department's 128(a) Brownfields program. At a minimum, the assessment protocol will consist of the following:

1. Decommission wells MW-7, MW-5, MW-6
2. Install four (4) wells to replace MW-8, MW-7, MW-5, MW-6
3. Install one (1) new well on the former Quality Motors site
4. Install four (4) soil vapor monitoring points on the Property

5. Re-sample existing soil vapor monitoring points
6. Re-sample existing ground water monitoring wells
7. Sample new monitoring wells
8. Sample new soil vapor monitoring points
9. Prepare a summary report identifying a preferred cleanup technology, if appropriate
10. If needed, prepare a cleanup options report
11. If needed, prepare a natural attenuation feasibility report

Cleanup

If, based on the results of the assessment, cleanup is deemed necessary, the Department contractor will, under the Department's direction, prepare and submit documents proposing a cleanup methodology. The Department will review and recommend approval (or disapproval) of the proposed methodology. Subject to final approval by the SRDA, the Department will issue a task order to its contractor to implement cleanup. The Department will consult with SRDA, review contractor cost estimates and confirm funds availability before instructing its contractor to implement the cleanup task order. The Department's contractor will invoice the Department's Leaking Underground Storage Tank Program ("LUST") for up to \$50,000 of the initial cleanup costs. The Department's contractor will invoice SRDA for any remaining cleanup work. SRDA will use their 104(k) EPA Cleanup Grant to pay any remaining costs of the cleanup work until their grant has a zero balance. Any cleanup will consist of the following elements, funded as indicated:

Department LUST Program

1. Implementation of the preferred cleanup technology (\$50,000 maximum, any remainder funded by SRDA)

SRDA

2. Quarterly ground water monitoring
3. Quarterly progress reports
4. Final cleanup closure report

The Department's LUST program may be able to contribute more funds. If additional funds become available, the Department will instruct the Department contractor to invoice the Department LUST program for an amount greater than the maximum indicated above prior to invoicing SRDA for cleanup activities.

4. CONTRACTS AND SUBCONTRACTS

All contracts or subcontracts for work performed pursuant to this Agreement will be based on the DEQ STANDARD CONTRACT. Unless otherwise indicated in this Agreement, the Department shall have the sole authority to enter into, terminate, modify, or otherwise control the content of such contracts, and the Department may, at its discretion, change contractors or enter into subcontracts for work to be performed under this Agreement. The Department will consult with

SRDA prior to entering into, termination or modifying any contract or subcontract for work to be performed under this Agreement.

5. CONTACTS

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6. FUNDS AVAILABILITY It is understood and agreed that the SRDA and the Department are government entities, and this Agreement shall in no way or manner be construed so as to bind or obligate the Parties beyond the term of any particular appropriation of funds by the City or State Legislature, respectively, as may exist from time to time. In the event the City or Legislature of the State of Idaho fails, neglects, or refuses to appropriate such funds as may be required to fulfill the terms of this Agreement, this Agreement shall be at such time automatically terminated and at an end. All future rights and liabilities of the Parties hereto shall thereupon cease within thirty (30) days after a party notifies the other party of such circumstance.

7. HOLD HARMLESS AND LIABILITY LIMITATION Nothing in this Agreement obligates the Department or SRDA to conduct an assessment and/or cleanup or take any other actions with respect to the Property.

The SRDA and the City of Salmon, Idaho shall indemnify, defend, and save harmless the STATE OF IDAHO and the Department, its officers, agents, and employees, from and against all liability, claims, damages, losses, expenses, actions, and suits whatsoever, including injury or death of others or any employee of the SRDA, any contractor or subcontractor, or affiliated persons and damage to tangible property, caused by or arising out of the SRDA'S negligent performance, act, or omission of any term of this Agreement.

Likewise, the STATE OF IDAHO and the Department shall indemnify, defend, and save harmless the SRDA, the City of Salmon, its officers, agents, and employees, from and against all liability, claims, damages, losses, expenses, actions, and suits whatsoever, including injury or death of others or any employee of the Department, any contractor or subcontractor, or affiliated persons and damage to tangible property, caused by or arising out of the Department's negligent performance, act, or omission of any term of this Agreement.

Nothing in this Agreement shall be construed as limiting or expanding the statutory or regulatory responsibilities of the Parties in performing functions granted to them by law; or as requiring either to expend any sum in excess of its respective appropriation; or expanding the liability of either party. In the event of a liability claim, each party shall defend their own interest. No party shall be required to provide indemnification of the other party except as noted herein. Each and every provision of this agreement is subject to the laws and regulations of the State of Idaho.

8. DISPUTE RESOLUTION All disputes should be resolved through collaborative process and consultation of the Parties as a matter of priority. Disputes of any nature should be dealt with immediately in the context of the meeting and published agenda. Should disputes involve technical or administrative language or responsibilities pertinent to EPA's requirements, the Parties will seek resolution through the EPA Region 10 Brownfields Program Manager.

9. TERMINATION Any party may terminate this Agreement by providing thirty (30) days written notice to the other party. Otherwise, this Interagency Agreement shall survive until one of the following conditions occurs:

- A. The Department issues SRDA a Certificate of Completion that is recorded on the property deed.

B. SRDA fulfills the Grant obligations and has completely depleted the Grant funds.

10. MERGER This Agreement and related attachments constitutes the entire agreement between the parties hereto and shall supersede all previous proposals, oral or written, negotiations, representations, commitments, and all other communications between the parties. It may not be released, discharged, changed or modified or assigned in whole or in part, and no claim for additional services not specifically provided herein will be allowed, except to the extent provided by an instrument in writing signed by a duly authorized representative of the SRDA and the DEPARTMENT. Any Riders, Appendices, Attachments, and all other information attached to this Agreement serve to supplement the terms and conditions of this Agreement, and do not change or eliminate any provision of this Agreement.

11. SEVERABILITY If any term or provision of this Agreement is held by the courts to be illegal or in conflict with any Idaho law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

12. SIGNATURES

The undersigned official representatives of the Parties hereby enter into this Agreement on behalf of the respective Parties.



Toni Hardesty, DEQ Director

8/24/09

Date



Ken Beller, SRDA

8/11/09

Date