

**SOLID WASTE ALTERNATIVES PROGRAM
AGREEMENT NUMBER – 11-G550-27FL**

Between

IOWA DEPARTMENT OF NATURAL RESOURCES

And

GATEWAY REDEVELOPMENT GROUP

IN WITNESS THEREOF, the parties hereto have executed this Agreement.

DEPARTMENT OF NATURAL RESOURCES

By: _____ Date: _____

Wayne Gieselman, Administrator

GATEWAY REDEVELOPMENT GROUP

By: _____ Date: _____

Jack Haberman, President

SOLID WASTE ALTERNATIVES PROGRAM
PROJECT AGREEMENT
IOWA DEPARTMENT OF NATURAL RESOURCES

Grantee: Gateway Redevelopment Group
519 West 8th Street
Davenport, IA 52803

Agreement Number: 11-G550-27FL

Agreement Title: Architectural Rescue Shop – Storage Barn

Agreement Amount: Forgivable Loan: \$14,835

Grantee Project Officer: Jack Haberman, President, 563-326-3290

Grantee Email Address: ars@grgdavenport.org

DNR Project Officer: Jim Bodensteiner, 515-281-8672
jim.bodensteiner@dnr.iowa.gov
Land Quality Bureau

Distribution Copies: Copy One – IDNR
Copy Two – Grantee

Time of Performance:	March 1, 2011 to June 30, 2012
Time of Final Documentation:	July 15, 2012
Term of Agreement:	March 1, 2011 to July 15, 2012

Submit Reporting Forms To: Jim Bodensteiner
Land Quality Bureau
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, Iowa 50319-0034

Submit Grant Expense Sheets To: Pam Brown
Management Services Division
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, Iowa 50319-0034

Issue Payment To: Gateway Redevelopment Group
519 West 8th Street
Davenport, IA 52803

SPECIAL CONDITIONS AND GENERAL CONDITIONS

The Grantee shall deliver all information and complete all tasks detailed in the Special Conditions. The rights and obligations of the parties to this Agreement shall be subject to and governed by the Special Conditions, the General Conditions, and the Appendices. To the extent of any inconsistency between the Special Conditions, the General Conditions, and the Appendices and any specifications or other conditions that are made a part of this Agreement by reference or otherwise, the provisions of the Special Conditions and the General Conditions shall control. To the extent of any inconsistency between the Special Conditions and the General Conditions, the provisions of the Special Conditions shall control.

SPECIAL CONDITIONS

ARTICLE I. IDENTIFICATION OF PARTIES, PROJECT, AND PROJECT AREA

This Agreement is by and between Gateway Redevelopment Group (hereinafter referred to as the Grantee) and the Iowa Department of Natural Resources (hereinafter referred to as the Department) for the purpose of constructing and putting into service a storage barn to provide on-site storage of usable, vintage building materials that have been salvaged for reuse (hereinafter referred to as the Project). The Project Area is, at a minimum, defined as Eastern Iowa, Scott County Area.

ARTICLE II. DESIGNATION OF OFFICIALS

- 2.1 **Department.** The Deputy Director of the Department shall execute any changes in the terms, conditions, or amounts specified in this Agreement. Tom Anderson shall negotiate on behalf of the Department and, subject to the approval of the Deputy Director, make any changes to this Agreement.
- 2.2 **Grantee.** The Grantee Project Officer is authorized to execute any changes in the terms, conditions, or amounts specified in this Agreement.
- 2.3 **Key Agreement Personnel.**
Jim Bodensteiner, Iowa Department of Natural Resources, 515-281-8672
Tom Anderson, Iowa Department of Natural Resources, 515-281-8623
Amy Wilken, Iowa Department of Natural Resources, 515-281-0649
Jack Haberman, Grantee Project Officer, 563-326-3290

ARTICLE III. TIME OF PERFORMANCE, TERM OF AGREEMENT

- 3.1 **Time of Performance.** The Grantee shall commence work under this Agreement on the beginning date and complete Agreement tasks by the ending date, as set forth in this Agreement unless changed by mutual written agreement. Agreement tasks include all actions and/or submittals required of the Grantee.
- 3.2 **Term of Agreement.** The Agreement remains open for the *Term of Agreement* as stated on the title page of this Agreement. The Agreement and all obligations of the Department contained herein may be terminated upon the occurrence of

one of the following: a) the loan is repaid in full including any court costs and penalties and all conditions of the Agreement have been fulfilled as determined by the Department; b) the Agreement is terminated due to any default under *Section 11* of the General Conditions; or c) if there has been no disbursement of Solid Waste Alternatives Program funds within twelve (12) months immediately following the announcement of awards, unless an extension is requested in writing by the Grantee and approved by the Department.

ARTICLE IV. SCOPE OF WORK

4.1 **Project Description.** The Grantee shall construct a 20' by 36' storage barn at the site of their Architectural Rescue Shop to provide on-site storage of usable, vintage building materials that have been salvaged from structures that are either going through renovation or are slated for demolition and destined for the landfill. The new storage facility will provide better public access for consumers looking to purchase salvaged materials, permit improved organization of overall salvage operations, and allow more efficient usage of volunteers. The project is expected to double the Grantee's landfill diversion from 40 tons per year to 80.

Upon successful demonstration of this alternative to landfilling, the Grantee shall assist the Department to promote the information gained from this Project to other public and private sector entities. Any information as a result of this Project becomes public information.

4.2 **Materials.** Building materials to be diverted from the landfill for reuse resulting from the Project include vintage doors, windows, flooring, woodwork, hardware, plumbing, lighting, and other metal, wood, and stone building supplies.

4.3 **Milestones:** The Grantee shall accomplish the activities listed in the Project Milestones by the assigned date. If changes are required, the Grantee must contact the Department in writing and receive approval of the amendment in writing.

PROJECT MILESTONES

Deliverables	Task Milestone Date
Describe efforts to contract with targeted businesses, minority-owned businesses, or women owned businesses for at least ten (10) percent of all purchase/expenditures, which utilize program funds. A directory can be found on the web at: https://dia.iowa.gov/tsb/index.php/search .	Ongoing
Site preparation and poured concrete pad completed.	No later than April 30, 2011
Construction of 20' x 36' storage barn completed.	No later than July 30, 2011
Painting and electrical completed.	No later than August 30, 2011
Interior shelving installed, storage barn is operational.	No later than September 30, 2011
Six-Month Progress Report due to the Department.	No later than October 15, 2011
First Quarterly Progress Report due to the Department	No later than January 15, 2012
Final Documentation due to the Department	No later than July 15, 2012

4.4 **Reporting Requirements.** The Grantee Project Officer shall provide Quarterly Progress Reports as outlined in the Reporting Schedule below. Items to be addressed in the Quarterly Progress Reports include but are not limited to:

1. Progress on milestones as identified in Article 4.3;
2. Total tonnage of materials, by material type, diverted from the landfill for reuse for the given Quarter;
3. Increase in materials diverted from the landfill for the given quarter, when compared with the same quarter in the previous year;
4. Sources of materials recovered for sale and reuse; and
5. Revenue, costs, and avoided costs associated with the collection, processing, and sale of reusable materials for the given Quarter.

REPORTING SCHEDULE

Due Date	Reporting Period	Report Type
October 15, 2011	March – September 2011	Six-Month Progress
January 15, 2012	October – December 2011	Quarterly Progress
April 15, 2012	January – March 2012	Quarterly Progress
July 15, 2012	March 2011 – June 2012	Final Documentation

4.5 **Final Documentation.** As part of the Final Documentation the following information, as collected over the full term of the Agreement, shall be provided:

1. Summary of all Quarterly reporting items as identified in Section 4.4;
2. Total tonnage of materials, by material type, diverted from the landfill for reuse over the Time of Performance of the Agreement;
3. Summary of economic impacts (revenue generated from sales, costs avoided, jobs created, etc.) achieved as a result of the Project; and
4. Narrative of any Project inefficiencies and the corrective actions taken to address those inefficiencies.

Disclaimer. Any publications pertaining to work performed under this Agreement shall contain the following statement:

"This (insert type of material) was prepared with the support of the Iowa Department of Natural Resources Agreement Number 11-G550-27FL. However, any opinions, findings, conclusions, or recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of IDNR."

The Department reserves the right to publish the reports, publications, and once completed by the Grantee and delivered to the Department. Written and oral releases are considered to be within the context of publication rights so reserved by the Department.

4.6 **Project Budget:** The Department agrees to pay the Grantee for expenses incurred for the Project in the amounts stated in the budget outlined on this page, not to exceed the *Agreement Amount* indicated on the title page of this Agreement. The Department may fund up to 75 percent of the purchase price of each item purchased with funds.

PROJECT BUDGET

ITEM	DNR AWARD	COST SHARE	TOTAL COST
Site preparation & building construction	\$14,835	\$4,945	\$19,780
Volunteer labor	\$0	\$8,000	\$8,000
Website management, public education	\$0	\$2,000	\$2,000
TOTAL	\$14,835	\$14,945	\$29,780

4.7 **Budget Amendments:** The Grantee shall request any budget deviations between any existing budget line items. The Grantee shall provide the Department a written request of the proposed budget deviation. The proposed revised budget cannot exceed the Agreement award amount as identified on the title page of the Agreement and local match requirements must be maintained. This written notice shall include:

- a) a statement of the reason(s) the budget deviation is requested and the impact on the intent of the project;
- b) a revised budget indicating affected budget line items

The Department will respond in writing to the request. Expenses cannot occur relating to the revised budget until the Grantee receives an approval letter from the Department.

4.8 **Claim Procedure:**

The Grantee shall submit:

- a) One (1) signed original (using non-black ink) of the Grant Expense Sheet detailing expenditures and appropriate budget line items.
- b) Invoices or receipts for items for which reimbursement is requested must be attached to the Grant Expense Sheet.
- c) If local match is to be shown: Indicate this on the Grant Expense Sheet and attach necessary documentation showing that local match identified has been paid.

Grant Expense Sheets should be sent to:

Pam Brown
Management Services Division
Iowa Department of Natural Resources
Wallace State Office Building
502 E. 9th Street
Des Moines, Iowa 50319-0034

Grant Expense Sheets must be submitted within ninety (90) days of the date of the oldest attached invoice. It is recommended that the Grantee submit Grant Expense Sheets as expenses are incurred

Claims shall be made only on items listed in the project budget outlined in section 4.6 of this Agreement.

No costs for which funds will be used can be incurred before the beginning date or after the ending date of the *Time of Performance*.

4.9 **Funding.** The Department will process Grant Expense Sheets for payment within thirty (30) working days provided:

- a) the Grant Expense Sheet is correctly completed;
- b) all required documentation is attached;
- c) all Grantee requirements (including local, state, and federal statutes, ordinances, rules, and regulations), to date, are completed to the satisfaction of the Department; and
- d) The Grantee is accomplishing *Project Milestones* identified in *Article IV* to the satisfaction of the Department. If any of these conditions is not met, the Department will notify the Grantee of the deficiencies and the Department may return the canceled Grant Expense Sheet to the Grantee. A new Grant Expense Sheet may be submitted to the Department for payment once Agreement requirements are met.

ARTICLE V. REVIEW OF WORK

The Department or its advisors shall have the right to review and observe at any time, completed work or work in progress on the Project.

5.1 Property Sales.

5.1.1 In the event that any nonexpendable tangible personal property item(s) purchased or constructed with program funds, are sold, and proceeds from that sale are used for *other* than acquisition of comparable replacement items during the *Term of Agreement*, the Department shall immediately be paid a percentage of the sale price equal to the percentage of program funds used in the original purchase or construction of the nonexpendable tangible personal property sold. Reimbursement will be based solely on items documented on the Grant Expense Sheet and purchased, including installation, with program assistance.

This provision is not intended to reduce the total amount due the Department under the terms of the loan.

5.1.2 *Forgivable Loan Only Awards*: In the event that any nonexpendable tangible personal property item(s) purchased or constructed with program funds, are sold, and proceeds from that sale are used for *other* than acquisition of comparable replacement items to maintain the intent of the Project for up to five (5) years after the expiration of the *Term of Agreement*, the Department shall be paid a percentage of the sale price equal to the percentage of program funds used in the original purchase or construction of the nonexpendable tangible personal property sold. Reimbursement will be based solely on items documented on the Grant Expense Sheet and purchased, including installation, with program assistance.

If the sale of any nonexpendable tangible personal property item(s) purchased or constructed with program funds are sold and at the Department's discretion signifies the end of the Project, provisions of Article 5.6 may be enforced.

Prior to the sale of any nonexpendable tangible personal property, the Department shall be notified no less than thirty (30) working days prior to the Grantee entering into an agreement for the sale of the nonexpendable tangible personal property. The written notice shall include a detailed description, including specifications, of the item or items proposed to be sold. For the purposes of this Agreement, nonexpendable tangible

personal property includes but is not limited to, vehicles, trailers, collection and processing equipment, building construction, building remodeling, and scales. "Comparable replacement items" means items that maintain the intent of the Project.

- 5.2 **Reporting:** Failure to submit timely and approvable reporting forms or the final documentation may result in any or all of the following:
1. The forgivable loan will revert to a zero interest loan.
 2. The Department terminates the Agreement and declares the entire unpaid loan balance and costs of collection immediately due and payable.
- 5.3 Prepayment of loan funds will not alleviate the Grantee of complying with conditions of this Agreement, including reporting requirements without prior approval of the Department.
- 5.4 **Milestones:** Milestone activities must be met by the assigned date. If the assigned date needs to be amended, prior written Department approval must be received. Failure to accomplished milestones by contracted or amended dates may result in any or all of the following:
1. The forgivable loan will revert to a zero interest loan.
- 5.5 **Budget:** Execution of this Agreement is certification that existing in-kind local match, as represented in the project budget is true, correct, and accurate. Falsely represented in-kind local match may result in any or all of the following:
1. The forgivable loan will revert to a zero interest loan.
- 5.6 **Project Failure.** In the event that the Project fails or ceases operations as originally proposed during the *Term of Agreement* and without prior Department approval the Department may:
1. The forgivable loan will revert to a zero interest loan.
 2. The Department may repossess all nonexpendable tangible personal property used in the performance of this Agreement.
- 5.7 Funding for this Project is subject to the continued financial support of the State of Iowa. If the State discontinues funding, this Agreement may be terminated or amended by the Department.
- 5.8 Ninety (90) days after the end of the Time of Performance the Department shall de-obligate any un-used award monies from the Project.

ARTICLE VI. INSURANCE

- 6.1 The Grantee shall submit to the Department a copy of the Grantee's Certificate of Insurance and a written statement to attest that the Grantee holds an adequate level of insurance to insure items purchased with program funds. This documentation shall be submitted before the time of purchase of grant and/or loan funded items unless approved by the DNR Project Officer.
- 6.2 The Department or its advisors shall have access for the purpose of examination of any insurance policy and associated records regarding insurance coverage of any item purchased or constructed using funds under this Agreement.

- 6.3 The Grantee shall maintain an adequate level of insurance for the period set forth under *Term of Agreement*.
- 6.4 The Grantee understands and agrees that the Department must approve any expenditures utilizing moneys received from the Grantee's insurer for the loss or damage of any item(s) purchased or constructed using grant and/or loan funds during the Term of Agreement. Failure to receive prior approval from the Department may result in any or all of the following:
1. The forgivable loan will revert to a zero interest loan.
- 6.5 In the case where items are lost or damaged, and the Grantee has received payment from the Grantee's insurer for this loss or damage, and the Grantee elects that these moneys will not be used to purchase replacement items or repair damaged items, the Grantee shall pay the Department a percentage of these insurance moneys equal to the percentage of grant and/or loan funds used in the original purchase of the item(s) lost or damaged for which insurance proceeds have been received during the Term of Agreement.

ARTICLE VII. TERM OF LOAN

- 7.1 The forgivable loan shall be forgiven if all contractual obligations referred to in this Agreement are met to the satisfaction of the Department. If contractual obligations are not met to the satisfaction of the Department, then the forgivable loan will revert to a zero interest loan, repayment will be required. *Appendix A, Repayment Schedule* will be added.
- 7.2 The Department agrees to make a loan to the Grantee to assist in the financing of the Project. In the amount of:
Forgivable Loan: \$14,835
- 7.3 The obligation to repay the loan shall be evidenced by the Agreement and the Promissory Note executed by the Grantee.
- 7.4 The Loan may be prepaid in part or in full at any time without penalty. Prepayment of this Loan will not alleviate the Grantee from fulfilling other conditions set forth in this Agreement or as amended by the Department and the Grantee.
- 7.5 The Grantee's submittal of a partial payment, or failure to pay any installment when due, or any other default by the Grantee under this Agreement, may result in the withholding of any or all unspent loan funds and may be cause for the Department to terminate the Agreement and declare the entire unpaid balance and costs of collection immediately due and payable.

GENERAL CONDITIONS

SECTION 1. AGREEMENT NEGOTIATION

The Grantee hereby agrees, upon commencement of Agreement negotiations, or after signature of the Agreement by both the Grantee and the Department, to attend a

Agreement consultation meeting at the Department's office, if so requested by the Department. If the Grantee fails to attend the Agreement consultation meeting the Department shall be free to terminate the Agreement negotiations or the signed Agreement, whichever applies, by the described method in *Section 11* of the General Conditions.

SECTION 2. ENTIRE AGREEMENT

This Agreement with all attachments and references constitutes the entire Agreement between the Department and the Grantee with respect to the subject matter hereof, and the Grantee acknowledges that it is entering into the Agreement solely on the basis of the terms and conditions herein contained and not in reliance upon any representative statement, inducement or promise, whether oral or written, not contained herein.

SECTION 3. AMENDMENT

The Department or the Grantee may initiate an amendment to this Agreement. Any amendment is effective only if in writing and agreed to by the Department and the Grantee. The amendment shall be effective as of the date it is agreed upon, unless otherwise specified in the amendment.

SECTION 4. AVAILABILITY OF DATA

All information and data obtained by the Grantee in connection with the Agreement shall be made available to the Department. Such information and data shall become the property of the Department except that which is necessary for the patent or copyright purposes of the Grantee.

SECTION 5. ASSUMPTION OF RISK AND LIABILITIES

The Grantee shall assume all risks and liabilities in connection with the performance of the Agreement and shall be responsible for all claims, demands, action or causes of action of whatever nature or character arising out of or by reason of the execution or performance of the work provided for herein, except to the extent caused by the State of Iowa. The Grantee shall indemnify and hold harmless the Department, its employees, agents or representatives, and the State of Iowa from all claims, demands, actions or causes of actions, arising out of or by reason of the execution or performance of the work provided for herein, and shall be responsible for all attorney fees, costs and expenses incurred by the Department, its employees, agents or representatives and the State of Iowa, except to the extent caused by the State of Iowa.

SECTION 6. TRANSFER OF WORK

The Grantee shall not transfer or assign any part or portion of the work on the Agreement without the prior written consent of the Department.

SECTION 7. REVIEW OF WORK

The Department shall have the right to review and observe, at any time, completed work or work in progress on the Agreement.

SECTION 8. COMPLIANCE REQUIREMENTS

The Grantee shall comply with all local, state, and federal statutes, ordinances, and rules or other requirements applicable to the establishment and operation of the Grantee's facility.

SECTION 9. ACCOUNTS AND RECORDS

- 9.1 The Grantee agrees to maintain books, documents, and other records pertaining to all costs and expenses incurred and revenues acquired during this Agreement to the extent and in such detail as will properly reflect all costs, direct and indirect, of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which reimbursement is claimed. The Grantee shall be prepared to support charges for salaries and wages by time, attendance and payroll records.
- 9.2 The Department, State Auditor, or any of their duly appointed representatives, shall have access for the purpose of audit and examination to any books, documents, papers and records of the Grantee which are pertinent at all reasonable times during the period of retention provided for in Sections 9.3, 9.4, and 9.5 below and shall have the right to make copies of excerpts or make other transcriptions thereof, subject to the provisions of 199 Iowa Administrative Code Section 1.9 and Iowa Code Chapter 22.
- 9.3 All records in the possession of the Grantee pertaining to this Agreement shall be retained by the Grantee for the period of five (5) years beyond the ending date set forth under *Term of Agreement*.
- 9.4 Records relating to any litigation or claim arising out of the performance of this Agreement, or costs or expenses of this Agreement to which exception has been taken as a result of inspection or audit, shall be retained by the Grantee until such litigation, claim, or exception has been finally settled or until five years from the ending date of *Term of Agreement* has expired, whichever occurs later.
- 9.5 The Grantee, in maintaining Agreement expenditure accounts and records and reports, shall make any necessary adjustments to reflect refunds, credits, underpayments or overpayments, as well as any adjustments resulting from any administrative reviews and audits by the United States or by the State of Iowa or by the Grantee. Such adjustments shall be set forth in the financial reports filed with the Department.

SECTION 10. UNALLOWABLE COSTS

The following costs are unallowable under this Agreement:

- a) Legal expenses for the prosecution of claims against the Department, the State of Iowa, the Federal Government, or any subdivision thereof;
- b) The difference in costs between first class air accommodations and less than first class air accommodations, unless less than first class air accommodations are not available;
- c) Costs incurred prior to the effective date of the Agreement;
- d) Costs of preparing proposals for potential contracts;
- e) Bad debts (any losses arising from uncollectible accounts and other claims and related costs);
- f) Contingencies (contributions to a contingency reserve or any similar provision for unforeseen events);
- g) Contributions or donations;
- h) Entertainment (costs of amusements, social activities, and incidental costs relating thereto, such as meals, beverages, lodgings, rentals, transportation, and gratuities);
- i) Fines and penalties (costs relating from violations of, or failure to comply with federal, state and local laws and regulations);

- j) Other financial costs (interest on borrowings -- however represented, bond discounts, costs of financing and refinancing operations, and legal and professional fees paid in connection therewith);
- k) Insurance premiums and other costs associated with insuring items purchased using loan funds;
- l) Office equipment such as furniture and computers, etc.

SECTION 11. TERMINATION OF AGREEMENT

- 11.1 Termination for cause - The Department may terminate this Agreement in whole or in part, at any time before the expiration date, whenever the Department has determined that the Grantee has materially failed to comply with the conditions of the Agreement. The Department shall promptly notify the Grantee in writing of the determination and reasons for the termination, together with the effective date. Payments made to the Grantee or recoveries by the Department under Agreements terminated for cause shall be in accord with the legal rights and liabilities of the parties.
- 11.2 Termination for convenience - The Department or Grantee may terminate the Agreement in whole or in part when both parties agree that the continuation of the Agreement would not produce beneficial results commensurate with the future expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The Grantee shall not incur new obligations for the terminated portion after the effective date and shall cancel as many outstanding obligations as possible. The Grantee shall prepare and deliver to the Department copies of a final report, within sixty (60) days, summarizing the work performed and the results obtained to date, together with such information and items which, if the Agreement had been completed, would have been required to be furnished to the Department.

SECTION 12. COPYRIGHTS AND USE OF DATA

- 12.1 The term "subject data" as used herein includes research data and reports, writings, sound recordings, pictorial reproductions, drawings or other graphical representations, and works of any similar nature which are specified to be delivered under this Agreement. The term does not include financial reports, cost analyses, and similar information incidental to Agreement administration.
- 12.2 The Grantee shall be considered the author of all original subject data.
- 12.3 The State may duplicate, use and disclose in any manner for any authorized State activity, and may allow others to do so, all subject matter deliverable under this Agreement.
- 12.4 In the Event the Grantee secures a copyright in any subject data (as defined above), the Grantee agrees to and does hereby loan to the State, its officers, agents and employees acting within the scope of their official duties, a royalty-free, non-exclusive, and irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so for use by the State, its division, instrumentalities and local subdivisions, all subject data now or hereafter covered by such copyright. If such subject data is not originated in the performance of this Agreement, such license shall be only to the extent that the Grantee, its employees or any individual or concern employed or assigned by the Grantee to originate and prepare such data under this Agreement, now has, or

prior to completion of final settlement of this Agreement may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

- 12.5 The Grantee shall exert all reasonable efforts to advise the Department at the time of delivery of the subject data furnished under this Agreement of all invasions of the rights contained in this Section.
- 12.6 The Grantee shall report to the Department promptly and in reasonable written detail, each notice or claim of copyright infringement received by the Grantee with respect to all subject data delivered under this Agreement. On receipt of this information, the parties hereto agree to confer to determine future uses to be made of the subject data.

SECTION 13. NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT

- 13.1 The Grantee agrees to report to the Department promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Agreement of which the Grantee has knowledge.
- 13.2 In the event of any claim or suit against the Department, the State of Iowa, their employees, agents, or representatives, or the United States, on account of an alleged patent or copyright infringement arising out of the work or services performed hereunder, the Grantee agrees to furnish the Department, upon request, all evidence and information in the possession of the Grantee pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Department except where the Grantee has agreed to indemnify the Department.

SECTION 14. EQUIPMENT

- 14.1 Definition - For loans and cooperative agreements to other than state and local governments, the term "equipment" means nonexpendable tangible personal property to be used in the performance of the Agreement, having an acquisition cost of five-hundred (\$500) dollars or more, and a useful life expectancy of greater than two (2) years. A borrower may use its own definition of equipment provided that such definition would at least include all articles of equipment as defined in this paragraph.
- 14.2 Definition - For loans and cooperative agreements to state and local governments, the term "equipment" means nonexpendable tangible personal property to be used in the performance of the Agreement, having an acquisition cost of five-thousand (\$5000) dollars or more, and a useful life expectancy of greater than one (1) year. A borrower may use its own definition of equipment provided that such definition would at least include all articles of equipment as defined in this paragraph.
- 14.3 The Grantee shall provide the Department with the original invoice(s) of property purchased. Such purchased property must correspond with approved Agreement items.
- 14.4 The Grantee will keep an inventory of the property in their jurisdiction. Inventories must include the following property characteristics: a) the serial number if applicable; b) the Agreement Number (if acquisition occurred as part of

the Agreement); c) its description; d) the date of acquisition; e) invoice number, if purchased; f) the original purchase price; and g) the physical location of the property.

- 14.5 The Grantee shall maintain adequate levels of insurance and a control system to insure adequate safeguards to prevent loss, damage or theft to the property. Any loss, damage, or theft of property shall be investigated, fully documented and reported to the department within sixty (60) calendar days of the occurrence.
- 14.6 The Grantee shall implement maintenance procedures to keep all property in good condition. Maintenance costs in excess of one-half (1/2) the estimated current fair market value of property or equipment shall require prior Department approval.

SECTION 15. ASSIGNMENT OF INTEREST

Neither the Agreement nor any interest therein nor claim thereunder shall be assigned or transferred by the Grantee to any other party or parties. Attempted assignment may be considered, at the option of the Department, to be a substantial breach and cause for termination within the meanings of Section 11.1 of the General Conditions.

SECTION 16. PERSONNEL

- 16.1 Selection - The Grantee represents that it has, or will secure, all personnel required in performing the work and services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the Department.
- 16.2 Qualification - All of the work and services required hereunder will be performed by the Grantee or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services.
- 16.3 Change of Key Personnel - Any individual specified by name under the article Key Personnel within the Special Conditions herein is considered essential to the work and services to be performed. If for any reason substitution for a specified individual becomes necessary, the Grantee shall provide immediate written notification of such to the Department. The Grantee shall provide the name and resume of qualifications for the replacement individual. Any replacement shall be subject to the approval of the Department.

SECTION 17. EFFECT OF INVALIDITY

If any of the provisions herein shall be in conflict with the laws of the State of Iowa, or shall be declared to be invalid by any court of record in this state, such invalidity shall be construed to affect only such portions as are declared invalid or in conflict with the law and such remaining portions of the Agreement shall remain in effect and shall be construed as if such invalid or conflicting portions were not contained herein.

SECTION 18. LITIGATION

- 18.1 The Grantee agrees to pay reasonable attorneys' fees and costs incurred by the Department in any litigation arising from failure of the Grantee to comply with the conditions or terms of this Agreement or resulting from the negligence or incompetence of the Grantee. In carrying out the provisions of the Agreement or

in exercising any power or authority otherwise, it is understood that in such matters the Department acts for the State.

- 18.2 The venue for any cause of action based upon this Agreement by either party to this Agreement, shall be in Polk County, Iowa, and the law of the State of Iowa shall apply.

SECTION 19. ASSURANCE

- 19.1 The Grantee shall not discriminate against any employee or applicant for employment because of race, creed, color, religion, national origin, sex, age, political belief, or handicap, in its employment practices. Such employment practices may include, but are not limited to, recruitment, 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.
- 19.2 The Grantee will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding a notice advising the labor union or representative of the Grantee's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 19.3 The Grantee will comply with all relevant provisions of the Iowa Civil Rights Act and Iowa Code 19B.7, Iowa Executive Order #15 of 1973, and Title VI of the Civil Rights Act of 1964 (PL 88-352). The Grantee shall furnish all information and reports reasonably requested by the Department and will permit access to its payroll and employment records by the Department or the Department's grantor agency for purposes of investigation to ascertain compliance with this nondiscrimination clause consistent with Iowa Code Chapter 22. The Grantee may be required to make available upon request its Affirmative Action Program containing goals and time deadline. Any breach of the above provisions shall be regarded as a material breach of Agreement and justification for termination for cause.
- 19.4 In the event of the Grantee's noncompliance with the nondiscrimination clauses of this Agreement, this Agreement may be canceled, terminated or suspended in whole or in part and the Grantee may be declared ineligible for further action, and such sanctions may be imposed and remedies invoked, as provided by the Iowa Civil Rights Act, Chapter 216, Code of Iowa, as heretofore and hereinafter amended, or as otherwise provided by law.

SECTION 20. CONTINGENT FEES

The Grantee warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Grantee, 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 the Grantee, any fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Department shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

SECTION 21. OFFICERS NOT TO BENEFIT

No officer or employee of the State shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested; or have any interest, direct or indirect, in this Agreement or the proceeds thereof.

PROMISSORY NOTE

Loan Amount:

\$14,835

Grantee:

Gateway Redevelopment Group
519 West 8th Street
Davenport, IA 52803

Date: _____

Signature: _____

Title: _____

For the loan received under Agreement Number 11-G550-27FL, the above signed hereby promises to pay the Iowa Department of Natural Resources for reimbursement of the Solid Waste Alternatives Program a sum of:

Forgivable Loan: \$14,835

The forgivable loan may be forgiven if all contractual obligations referred to in this Agreement are met. If the requirements are not met, then the forgivable will revert to a zero interest loan, repayment will be required. *Appendix A, Repayment Schedule* will be added.

When submitting a payment to the Department, a copy of the **Repayment Schedule must be correctly completed and shall accompany each payment made to the Department.**

General Information

1. Payments. All payments under this Promissory Note shall:

- a) be made Pay To The Order of the **Department of Natural Resources** and include the Agreement number on the check;
- b) Be submitted to the Iowa Department of Natural Resources, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319;
- c) Be submitted to the attention of Pam Brown; and
- d) Be accompanied by a correctly completed Repayment Schedule.

- 2. Acceleration Upon Default.** This Promissory Note is issued to evidence an obligation to repay a \$14,835 loan according to the terms of the Agreement between the Department of Natural Resources, Land Quality Bureau and the Grantee. The forgivable loan portion of this award shall be forgiven if all contractual obligations referred to in this Agreement are met. At the election of the Department and with written notification, this Promissory Note shall become immediately due and payable in the event any payment is not made when due or upon the occurrence of any event of default under the terms of the Agreement.
- 3. Reduced Amount.** In the event the Grantee fails to claim and spend the full face amount of the Note as set out above, then the amount of each installment payment shall be reduced accordingly in equal amounts.
- 4. Security.** Payment of this Note is secured by a Uniform Commercial Code Financing Statement filed with the Office of the Secretary of State on all tangible property purchased with these funds under this Agreement. The Department is holder of the first security interest on all vehicle titles purchased which utilized funds awarded under the Solid Waste Alternatives Program under this Agreement. Title certificates for vehicles shall be filed with the Iowa Department of Transportation and the lien noted on the title certificate. The Department is entitled to the benefits of the security interest therein described.
- 5. Waiver.** No delay or omission on the part of the Department in exercising any right under this Note shall operate as a waiver of that right under this Promissory Note. A waiver on any one occasion shall not be construed as a waiver of any right and/or remedy on any future occasion.
- 6. Waiver of Protest.** Each surety, endorser and guarantor of this Note, expressly waives presentment, protest, demand, notice of dishonor or default, and notice of any kind with respect to this Note.
- 7. Costs of Collection.** The Grantee will pay on demand all costs of collection, maintenance of collateral, legal expenses, and attorney's fees incurred or paid by the Department in collecting and/or enforcing this Promissory Note on default.
- 8. Miscellaneous.** The above General Information in this Promissory Note are for the convenience of reference only, shall not define or limit the provisions hereof and shall not have any legal or other significance whatsoever.