

ARRA GRANT FUNDING AGREEMENT

THIS ARRA GRANT FUNDING AGREEMENT ("Agreement") is made and entered into this 16TH day of June, 2010, by and between the City of Las Vegas, a municipal corporation in the State of Nevada ("City") and Green Chips, a Nevada nonprofit corporation ("Subrecipient"). City and Subrecipient are individually or collectively referred to herein as the "Party" or "Parties."

RECITALS

WHEREAS, City has entered or anticipates entering into a funding agreement involving the American Recovery and Reinvestment Act of 2009, Public Law 111-5 ("ARRA Program"); and

WHEREAS, City receives funds under the ARRA Energy Efficiency and Conservation Block Grants-Formula Grant program of the United States Department of Energy, as authorized by the ARRA Program; and

WHEREAS, the purpose of the Energy Efficiency and Conservation Block Grant Program ("EECBG Program") is to assist eligible entities in creating and implementing strategies to:

- a. Preserve existing and create new local jobs; and
- b. Reduce fossil fuel emissions in a manner that is environmentally sustainable and, to the maximum extent practicable, maximizes benefits for local and regional communities;
- c. Reduce the total energy use of the eligible entities; and
- d. Improve energy efficiency in the building sector, the transportation sector, and other appropriate sectors.

WHEREAS, City is responsible for planning, administering, and implementing the ARRA Program to ensure that it conforms to the required terms and conditions; and

WHEREAS, City as grantee, wishes to engage Subrecipient to assist City in utilizing such funds by providing services to meet one or more of the ARRA Program's objectives;

WHEREAS, City may utilize ARRA funds in whole or in part for the engagement of Subrecipient for the Project;

WHEREAS, the services which are funded by the EECBG Program will benefit the citizens and families within the respective jurisdiction of City, and in accordance the Green Chips Revolving Loan Pilot Program will meet the EECBG Program goals and objectives as enumerated in the purpose of the EECBG Program.

WHEREAS, Subrecipient, located at 3050 East Flamingo Road, Las Vegas, Nevada 89121, proposes to achieve the purposes of the program through its Implementation Plan (the "Project"), administered primarily in Las Vegas, Nevada, and

WHEREAS, Subrecipient has applied to City for grant assistance to fund the Project; and

WHEREAS, pursuant to NRS 244.1505 City's City Council may expend money for any purpose which will provide a substantial benefit to the inhabitants of City or grant money to a private organization, not for profit, to be expended for the selected purpose; and

WHEREAS, City's City Council hereby determines that the purpose for which the Funds (as hereinafter defined) will be used by Subrecipient, as identified and incorporated herein as if fully set forth, will provide a substantial benefit to the inhabitants of City.

NOW, THEREFORE, in view of the above premises, City and Subrecipient agree as set forth below:

ARTICLE 1 ARRA FEDERAL FUNDING REQUIREMENTS

1.1. Federal General Conditions.

1.1.1. Subrecipient acknowledges that ARRA funds may be used for the Project and Subrecipient agrees to comply with the all federal laws, orders, regulations and directives. The applicable ARRA federal award terms shall govern over any conflicts with other federal terms or Agreement provisions.

1.2. Records.

1.2.1. Subrecipient shall provide City and Comptroller General of the United States through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the program; and shall establish a proper accounting system in accordance with generally accepted accounting standards or Federal agency directives, and to cooperate with any required financial and compliance audits in conducted in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations." All financial and programmatic records, supporting documents, statistical records, and other grants-related records shall be maintained and available for access in accordance with 43 CFR 12 Subpart C, Section 12.82 titled Retention and access requirements for records.

1.3. Conflict Of Interest.

1.3.1. Subrecipient agrees to establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

1.3.2. No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit arising from it. However, this clause does not apply to this Agreement to the extent that this Agreement is made with a corporation for its general benefit.

1.4. Federal Statutes.

1.4.1. Subrecipient agrees to comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

1.4.2. Subrecipient agrees to comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

1.4.3. Subrecipient agrees to comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) regarding labor standards for federally-assisted construction sub-agreements.

1.4.4. Subrecipient agrees to comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

1.4.5. Subrecipient agrees to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

1.4.6. Subrecipient agrees to cooperate with the grant awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

1.5. ARRA Conditions.

1.5.1. Subrecipient agrees to comply with all requirements of ARRA, as may be updated, including but not limited to the following terms:

1.5.1.1. Subcontracts. These ARRA requirements include and require performance by each contractor, subcontractor, and supplier at all tiers equal to that required by the Subrecipient. Subrecipient agrees to include and flow-down all ARRA requirements and provisions in all contracts and purchase orders at any tier entered into hereunder.

1.5.1.2. Registration. Subrecipient shall obtain a DUNS number and register in the Central Contractor Registration database no later than the date the first report is due under FAR 52.204-11 American Recovery and Reinvestment Act Reporting Requirements, maintain current registrations in the Central Contractor Registration database at all times during which they have active federal awards funded with ARRA funds, and complete other registration requirements as determined by the Director of the Office of Management and Budget.

1.5.1.3. Reporting. Subrecipient shall report quarterly on project or activity status, job creation and preservation, and subcontract information. Subrecipient agrees that it will provide all information and documentation required by City in order to comply with both the ARRA and EECBG programs.

1.5.1.4. Buy American. Subrecipient shall comply with the ARRA section 1605 domestic sourcing (Buy American) requirements that apply to certain iron, steel and manufactured goods, and the Buy American Act (41 U.S.C. 10a-10d), and to specify and allow only compliant goods and materials for use in the Project. During the preparation of documents, the Subrecipient shall verify with the supplier and manufacturer that they have a compliant product if no model number is being stated in the documents, and that a particular model is compliant if listing model numbers. Subrecipient is responsible for verifying compliance of all contractor submittals. The Subrecipient is responsible for compliance of their subcontractors at all tiers. The Buy American requirement shall be stated in each specification section providing construction materials. Subrecipient and subcontractors at all tiers are required to keep records of their efforts to verify compliance for each product used and provide the records to City upon request. The Subrecipient shall be responsible for the removal and replacement of foreign goods and the reduction of the federal award amount should foreign goods be allowed to remain, caused by the Subrecipient's failure to comply with the Buy American provisions.

1.5.1.5. Waivers. The Subrecipient shall not utilize any waivers allowed by the Buy American or other provisions of ARRA without the prior written approval of City, which City may refuse to grant without assigning any reason for the refusal. Waiver of Buy American refers to the three allowed circumstances of: (1) unavailability, (2) 25 percent cost increase, and (3) not in the public interest, described in 74 FR 18452, 176.60 and 176.80.

1.5.1.6. Segregation and Payment of Costs. Subrecipient shall separately track and maintain records that identify adequately the source and application of ARRA funds to ensure proper accounting and reporting of expenditures in single audits. The Subrecipient agrees to maintain timesheets to document hours worked for activities related to this Project that segregate ARRA funded activities from unrelated activities. Invoices must clearly indicate the portion of requested payment that is for work funded by ARRA.

1.5.1.7. Transparency. The Subrecipient agrees to comply with the Federal Funding Accountability and Transparency Act of 2006, as amended, and the Government Funding Transparency Act of 2008, as may be amended, and acknowledges that information about this Agreement, the Project, and the Subrecipient will be publicly available including publishing on the Internet, and agrees to provide all reported data through City unless directed to provide it directly to the federal agency.

1.5.1.8. Access to Records and Employees. The Subrecipient shall comply with the access provisions of Sec. 901, Sec. 902, and Sec. 1515(b) of ARRA including granting City, U.S. Comptroller General, Inspector General of a federal department or agency, and other federal authorities and the representatives of any, the authorization to examine any records of the Subrecipient or any of its subcontractors that directly pertain to, and involve transactions relating to, this Agreement or subcontracts; and authorization to interview any officer or employee of the Subrecipient or any of its subcontractors regarding such transactions. The Subrecipient and subcontractors shall provide access at all reasonable times before and during the period of retention and provide proper facilities for such inspection and audit.

1.5.1.9. Records Retention. All financial and cost reports, books of account and supporting documents, system files, data bases, and other data evidencing costs allowable, collections accruing to the Subrecipient in connection with the work under this Agreement, other applicable credits, and fee accruals under this Agreement, shall be the property of the U.S. Government, and shall be delivered to the U.S. Government or otherwise disposed of by the Subrecipient as directed the awarding federal agency contracting officer. Except as otherwise directed by the awarding federal agency contracting officer, all records in the possession of the Subrecipient relating to this Agreement shall be preserved by the Subrecipient for a minimum period of three years after final payment.

1.5.1.10. Inspection. City, federal agencies, and their representatives shall have the right to inspect the work and activities of the Subrecipient and subcontractors under this Agreement at such time in such manner as it shall deem appropriate.

1.5.1.11. False Claims. The Subrecipient and subcontractors at all tiers shall promptly refer to City and Inspector General of the federal agency any credible evidence that a principal, employee, agent, contractor, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds (False Claims Act, 31 U.S.C. sec. 3729-3733)(ARRA Sec. 1553).

1.5.1.12. Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 [Mar 2009]. (a) The Subrecipient shall post notice of employee rights and remedies for whistleblower protections provided under section 1553 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5). (b) The Subrecipient shall include the substance of this clause including this paragraph (b) in all subcontracts.

1.5.1.13. Subcontracting Preferences. Subrecipient shall to the maximum extent practicable give a preference to small businesses, disadvantaged business enterprises, and local hiring in the award of subcontracts.

1.6. Modification of Agreement.

1.6.1. Amendment or Revision Required By ARRA. Subrecipient agrees to comply with any modifications or additional requirements that may be imposed by law and future guidance and clarifications of ARRA requirements without amending this Agreement or additional compensation. Should ARRA or any applicable federal statutes or regulations require modification of this Agreement, Subrecipient and City hereby agree to amend or otherwise revise this Agreement.

1.6.2. Provisions Required By Law Deemed Inserted. Each and every provision of law and clause required by law to be inserted in this Agreement will be deemed to be inserted herein, and this Agreement shall be read and enforced as though it were included herein and if through mistake or otherwise any such provisions not inserted, or is not correctly inserted, then upon the application of either Party this Agreement shall forthwith be physically amended to make such insertion.

ARTICLE 2 FUNDS CONTRIBUTION

2.1 Contribution of Funds. Subject to the terms of this Agreement, City hereby agrees to grant Two Hundred Thousand Dollars and No Cents (\$200,000.00) in EECBG Funds ("Funds") to Subrecipient to establish a revolving loan pilot program to fund energy retrofits during the period from October 26, 2009 through October 25, 2012 as outlined in Exhibit "A" and Exhibit "B", both of which are attached hereto and incorporated herein by this reference.

2.2. Limitation of Funding. City shall not provide any additional funding beyond the grant of Two Hundred Thousand Dollars and No Cents (\$200,000.00) and City shall not be obligated to pay claims beyond that amount, except for any additional funds approved by the City's City Council and by a written addendum mutually agreed to by both Parties.

ARTICLE 3 EXPENSES AND PAYMENTS

3.1 Administration. The intent of this award is to benefit the community in City to the greatest extent possible. As a condition to receiving the grant funds provided herein, Subrecipient covenants and agrees to incur no more than ten percent (10%) of the total amount of EECBG funds (\$20,000) towards the cost for administration. This ten percent (10%) cap includes, but is not limited to, Subrecipient staff costs, office supplies, computer equipment and software, packaging and shipping, rental expense, utilities, and other administrative expenses necessary to conduct operations related to the work performed authorized under this Agreement.

3.2. Goals, Revolving Loan Pilot Program Expenses. The goal of this program is to establish a revolving loan pilot program to provide financing for businesses and homeowners who undertake energy audits and retrofits. This initiative will help promote City's sustainability initiative, help residents control rising energy costs and lower the community's overall carbon footprint. The program is projected to serve residential, commercial, and non-profit buildings within City. To achieve these goals, Subrecipient will perform the necessary tasks to establish the Revolving Loan Pilot Program and City will pay Subrecipient up to the not-to-exceed amounts set forth in the attached Exhibit A for the work performed, unless modified by a mutually agreed to written amendment by both Parties.

3.3. Payment.

3.3.1. As loan applications are approved, Subrecipient shall submit invoices to City to be paid within thirty (30) days of receipt. Each invoice shall include: (i) the invoice date, (ii) the loan amount, and (iii) the loan security amount. As administrative expenses are incurred, Subrecipient shall submit invoices to City to be paid within thirty (30) days of receipt. Each invoice shall include: (i) the invoice date, (ii) the period of performance, (iii) the summary of expenses, (iv) the name of the vendor or payee, (v) the amounts paid to each vendor or payee named in the invoice; and (vi) the description of the good or

service provided by vendor or payee named in the invoice. Subrecipient shall submit an original invoice to:

Department of Finance and Business Services
Attention: Accounts Payable
City of Las Vegas
400 Stewart Avenue
Las Vegas, Nevada 89101-2986

Subrecipient shall forward a copy of the original invoice to:
Department of Administrative Services
Attention: Marco Velotta
City of Las Vegas
400 Stewart Avenue
Las Vegas, Nevada 89101-2986

ARTICLE 4 AGREEMENT TERM AND SCOPE OF WORK

4.1. Agreement Term. The term of this Agreement is effective on the date entered into the first paragraph of this Agreement upon execution of an authorized agent of City. The term of this Agreement will expire on October 25, 2012, unless extended by written mutual agreement of both Parties.

4.2. Scope of Work. As a condition to this Agreement, Subrecipient agrees to establish a revolving loan pilot program with an FDIC-insured commercial lending institution to provide financing for energy audits and retrofits. These activities will be conducted in the following manner:

4.2.1. Subrecipient will establish a revolving loan pilot program.

4.2.2. Subrecipient will market Green Chips Revolving Loan Program to homeowners through City's existing Green Building Program home energy audit rebate incentive in partnership with HomeFree Nevada.

4.2.3. Interested homeowners will schedule a home energy audit with a HomeFree Nevada qualified auditor.

4.2.4. Based on the recommendations of the audit, homeowners will choose retrofit measures and retain a HomeFree Nevada-qualified retrofit contractor.

4.2.5. Homeowners will submit to Green Chips the loan application together with audit recommendations and retrofit scope of work.

4.2.6. Upon completion of the retrofit improvements, contractor will submit documentation of improvements and energy savings to Green Chips.

4.2.7. Green Chips will disburse funds either directly or through a commercial lending institution, to retrofit contractor and arrange repayment terms with homeowner.

4.2.8. Once the loan is repaid, the revolving loan fund is replenished with the principal and interest earned, enabling new loans.

4.3. Audit Report. Subrecipient shall provide to City the following:

4.3.1. Monthly progress report on number of residential, commercial, and nonprofit properties retrofitted and amount of energy saved in kilowatt hours and reduction of greenhouse gas emissions in CO₂ metric tons.

4.3.2. Monthly report on the performance of the loan portfolio, including total monies outstanding, repayment outlook, and delinquencies.

ARTICLE 5 OTHER TERMS AND CONDITIONS

5.1. Legal Notice. All legal notices required pursuant to the terms and conditions of this MOU shall be in writing, unless an emergency situation dictates otherwise. Any notice required to be given under the terms of this MOU shall be deemed to have been given when:

- (i) Received by the Party to whom it is directed by hand delivery or personal service;
Transmitted by facsimile with confirmation of transmission, or
- (ii) Sent by U.S. Mail via certified mail-return receipt requested at the following addresses:

FOR CITY:

City of Las Vegas
Department of Administrative Services
400 Stewart Avenue
Las Vegas, Nevada 89101
Phone: (702) 229-4173

FOR SUBRECIPIENT:

Green Chips
Attention: Gary Wood
3050 East Flamingo Road
Las Vegas, Nevada 89121
Phone: (702) 799-1010

5.2. Disputes.

5.2.1. For each claim or dispute arising between the Parties under this Agreement, the Parties shall attempt to resolve the matter through escalating levels of their respective managements. In the event the matter cannot be successfully resolved in this manner, City is granted the right, regardless of which Party is asserting the claim or dispute, to determine between arbitration or litigation as the forum in which the Party desiring to proceed further shall file to resolve the claim or dispute. For any and all claims or disputes asserted by Subrecipient, Subrecipient shall notify City of its intent to proceed further with the claim or dispute, and in response thereto, City shall notify Subrecipient as to its selected forum for resolution. For any and all claims or disputes asserted by City, City shall notify Subrecipient in the notice of its intent to proceed with further resolution and in the same notice as to whether it has selected

arbitration or litigation as the forum to resolve the claim or dispute. In the event arbitration is the designated forum, such arbitration shall be binding on the Parties.

5.2.2. If arbitration is selected by City as the forum for further resolution, the claim or dispute shall be filed with the Nevada Arbitration Association or the American Arbitration Association under its then current Commercial Arbitration Rules, Expedited Procedures, regardless of the amount of the claim or dispute.

5.2.3. The laws of the State of Nevada shall govern this Agreement and the venue for purposes of such litigation or arbitration shall be in City.

5.3. Termination for Convenience. Either Party shall have the right at any time to terminate further performance of this Agreement, in whole or in part, for any reason whatsoever. Such termination shall be effected by written notice from the terminating Party. On the effective date of the termination, Subrecipient shall terminate all work and take all reasonable actions to mitigate expenses. Subrecipient shall submit a written request for incurred costs for services performed through the date of termination, and shall provide any substantiating documentation requested by City. In the event of such termination, City agrees to pay Subrecipient within 30 days after receipt of a correct, adequately documented written request. City's sole liability under this Paragraph is for payment of the costs for the work pursuant to this Agreement and actually performed by Subrecipient.

5.4. Indemnification. Subrecipient shall protect, indemnify and hold harmless City, its officers, employees, agents harmless from any and all claims, liabilities, damages, losses, suits, actions, decrees and judgments including, attorney's fees, court costs or other expenses of any and every kind or character (collectively herein the "Liabilities") which may be recovered from or sought against City, as a result of, by reason of, or as a consequence of, any act or omission, negligent or otherwise, on the part of Subrecipient, its officers, employees, or agents in the performance of the terms, conditions and covenants of Agreement, regardless of whether the Liabilities were caused in part by City.

5.5. Assignment. Neither Party may assign their rights nor delegate their duties under this agreement without the written consent of the other Party. Such consent shall not be withheld unreasonably. Any assignment or delegation shall not relieve any Party of its obligations under this Agreement.

5.6. Waiver. Waiver of any terms of this Agreement shall not be valid unless it is in writing signed by each Party. The failure of City to enforce any of the provisions of this Agreement, or to require performance of any of the provisions herein, shall not in any way be construed as a waiver of such provisions or to affect the validity of any part of this Agreement, or to affect the right of City to thereafter enforce each and every provision of this Agreement. Waiver of any breach of this Agreement shall not be held to be a waiver of any other or subsequent breach of this Agreement.

5.7. Audit of Records. Subrecipient agrees to maintain the financial books and records (including supporting documentation) pertaining to the obligations, terms and conditions of this Agreement according to standard accounting principles and procedures. The books and records shall be maintained for a period of three (3) years after completion of this Agreement, except that books and records which are the subject of an audit finding shall be retained for three (3) years after such finding has been resolved. If Subrecipient stops operations, Subrecipient shall forward copies of these books and records to City to be retained by City for the period of time required herein.

5.9. Modification/Amendment. This Agreement shall not be modified or amended except by the express written agreement of the Parties, signed by a duly authorized representative for each Party. Any other attempt to modify or amend this agreement shall be null and void, and may not be relied upon by either Party.

5.11. Entire Agreement. This Agreement represents the entire and integrated agreement between City and HomeFree Nevada. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement.

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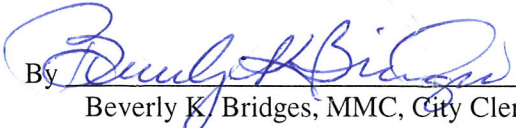
5.12. Counterpart Signatures. This Agreement may be executed in counterparts, all such counterparts will constitute the same Agreement and the signature of any Party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by facsimile or e-mail and upon receipt will be deemed originals and binding upon the Parties hereto, regardless of whether originals are delivered thereafter.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

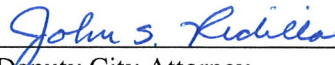
CITY OF LAS VEGAS

By: 
Oscar B. Goodman, Mayor

ATTEST:

By  6/23/10
Beverly K. Bridges, MMC, City Clerk Date

APPROVED AS TO FORM:

By  6/3/10
Deputy City Attorney Date
John S. Ridilla
Deputy City Attorney

GREEN CHIPS

By: 
Gary Wood, President V.P.