

BOARD OF PUBLIC WORKS
MICHAEL E. KOBZA HALL OF JUSTICE
ADDENDUM TO AGENDA
JANUARY 12, 2012
3:30 P.M.

1. Alternate Water Supply Replacement Contract.

AMERICAN DISABILITY ACT POLICY FOR ACCESS TO OPEN MEETINGS OF THE
MUSKEGON COUNTY BOARD OF COMMISSIONERS AND ANY
OF ITS COMMITTEES OR SUBCOMMITTEES

The County of Muskegon will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities who want to attend the meeting, upon 24-hours notice to the County of Muskegon. Individuals with disabilities requiring auxiliary aids or services should contact the County of Muskegon by writing or calling the following:

Muskegon County Administrator's Office
Michael E. Kobza Hall of Justice
Fourth Floor; 990 Terrace Street; Muskegon, MI 49442
(231) 724-6520

REQUEST FOR BOARD CONSIDERATION-COUNTY OF MUSKEGON

COMMITTEE Board of Public Works		BUDGETED <input type="checkbox"/> NON-BUDGETED <input type="checkbox"/> PARTIALLY BUDGETED <input type="checkbox"/>		
REQUESTING DEPARTMENT Public Works		COMMITTEE DATE January 12, 2012		REQUESTOR SIGNATURE <i>J. Lemmen</i>
SUMMARY OF REQUEST (GENERAL DESCRIPTION, FINANCING, OTHER OPERATIONAL IMPACT, POSSIBLE ALTERNATIVES) When we constructed the watermain to the Greenridge Subdivision in Laketon Township a couple years ago, MDEQ paid to connect all houses within the contaminated zone to the water system. There was one single homeowner who refused to let us on the property to perform the work. Since that time his house has been foreclosed on and recently sold. The new owners' well died soon afterwards and they desired to hook to water but could not afford the cost. Our staff worked with MDEQ to get them to agree to pay up to \$10,000 of the connection fee plus the cost of making the connection. The homeowner will pay little or nothing for this connection. The attached agreement must be executed by Muskegon County which basically extends the Greenridge agreement to this property at 245 Birch also. Staff recommends approval of the agreement. This item was presented to the Regional Water System Policy Board at their meeting on January 10, 2012.				
SUGGESTED MOTION (STATE EXACTLY AS IT SHOULD APPEAR IN THE MINUTES) I move to approve the agreement with MDEQ for their payment of up to \$10,000 for costs to connect the house at 245 Birch Street in Laketon Township to the Muskegon County Regional Water System.				
ADMINISTRATIVE ANALYSIS (AS APPLICABLE)				
<u>HUMAN RESOURCES ANALYSIS:</u>		<u>FINANCE & MANAGEMENT ANALYSIS:</u> <i>Recommended Approval</i>		
<u>CORPORATE COUNSEL ANALYSIS:</u> Concur J. Lemmen		<u>ADMINISTRATOR RECOMMENDATION:</u> <i>approval</i>		
AGENDA DATE:	AGENDA NO.:	BOARD DATE:	PAGE NO.	



ALTERNATE WATER SUPPLY REPLACEMENT CONTRACT
 BETWEEN THE
 MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
 AND
 MUSKEGON COUNTY DEPARTMENT OF PUBLIC WORKS

This Grant Contract (Contract) is made between the Michigan Department of Environmental Quality (DEQ), Resource Management Division (State), and MUSKEGON COUNTY DEPARTMENT OF PUBLIC WORKS (MCDPW) (Grantee).

The purpose of this Contract is to provide funding in exchange for work to be performed for the project named below. The State is authorized to provide grant assistance pursuant to Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. Legislative appropriation of funds for grant assistance is set forth in 2006 PA 343. This Contract is subject to the terms and conditions specified herein.

Project Name: Greenridge Sub

Amount of grant: \$10,000

% of grant state \$100

PROJECT TOTAL: \$10,000

Start Date: December 19, 2012

End Date: March 31, 2012

GRANTEE CONTACT:

STATE'S CONTACT:

John Warner, P.E., Deputy Director

David DeYoung

Muskegon County Department of Public Works

Resource Management

131 E. Apple Ave.

525 West Allegan, P.O. Box 30273

Muskegon MI 49442

Lansing, MI 48909-7773

231-724-6522

517-241-1397

231-724-6118

517-241-1328

finkst@co.muskegon.mi.us

deyoungd@michigan.gov

38-6006063

E-mail address

Federal ID number

The individuals signing below certify by their signatures that they are authorized to sign this Contract on behalf of their agencies and that the parties will fulfill the terms of this Contract, including any attached appendices, as set forth herein.

FOR THE GRANTEE:

Signature

Date

Name/Title

FOR THE STATE:

Signature

Date

Name/Title

I. PROJECT SCOPE

This Contract and its appendices constitute the entire Contract between the State and the Grantee and may be modified only by written agreement between the State and the Grantee.

- (A) The scope of this project is limited to the activities specified in Appendix A and such activities as are authorized by the State under this Contract. Any change in project scope requires prior written approval in accordance with Section III, Changes, in this Contract.
- (B) By acceptance of this Contract, the Grantee commits to complete the project identified in Appendix A within the time period allowed for in this Contract and in accordance with the terms and conditions of this Contract.

II. CONTRACT PERIOD

Upon signature by the State, the Contract shall be effective from the Start Date until the End Date on page 1. The State shall have no responsibility to provide funding to the Grantee for project work performed except between the Start Date and the End Date specified on page 1. Expenditures made by the Grantee prior to the Start Date or after the End Date of this Contract are not eligible for payment under this Contract.

III. CHANGES

Any changes to this Contract [other than budget line item revisions less than [15] percent of the budget line item] shall be requested by the Grantee in writing and approved in writing by the State. The State reserves the right to deny requests for changes to the Contract or to the appendices. No changes can be implemented without approval by the State.

IV. GRANTEE DELIVERABLES AND REPORTING REQUIREMENTS

The Grantee shall submit deliverables and follow reporting requirements specified in Appendix A of this Contract.

- (A) The Grantee must complete and submit financial reports according to a form and format prescribed by the State and must include supporting documentation of eligible project expenses]. These reports shall be due according to the following:

Reporting Period	Due Date
April 1 - June 30	July 31
July 1 - September 30	October 10
October 1 - December 31	January 31
January 1 - March 31	April 30

The forms provided by the State shall be submitted to the State's contact at the address on page 1. All required supporting documentation (invoices, proof of payment, etc.) for expenses must be included with the report.

- (B) The Grantee shall submit the financial status report, including all supporting documentation for expenses, along with the final project report and any other outstanding products within 30 days from the End Date of the Contract.
- (C) If 15 percent (15%) or more of the grant amount is expended in a single quarter, payment requests may be submitted once monthly during that quarter.

V. GRANTEE RESPONSIBILITIES

- (A) The Grantee agrees to abide by all local, state, and federal laws, rules, ordinances, and regulations in the performance of this grant.
- (B) All local, state, and federal permits, if required, are the responsibility of the Grantee. Award of this grant is not a guarantee of permit approval by the State.
- (C) The Grantee shall be solely responsible to pay all taxes, if any, that arise from the Grantee's receipt of this grant.
- (D) The Grantee is responsible for the professional quality, technical accuracy, timely completion, and coordination of all designs, drawings, specifications, reports, and other services furnished by the Grantee or its subcontractor under this Contract. The Grantee or its subcontractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in drawings, designs, specifications, reports, or other services.
- (E) The State's approval of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve the Grantee of responsibility for the technical adequacy of the work. The State's review, approval, acceptance, or payment for any of the services shall not be construed as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract.
- (F) The Grantee acknowledges that it is a crime to knowingly and willingly file false information with the State for the purpose of obtaining this Contract or any payment under the Contract, and that any such filing may subject the Grantee, its agents, and/or employees to criminal and civil prosecution and/or termination of the grant.

VI. USE OF MATERIAL

Unless otherwise specified in this Contract, the Grantee may release information or material developed under this Contract, provided it is acknowledged that the State funded all or a portion of its development.

The State retains an irrevocable license to reproduce, publish, and use in whole or in part, and authorize others to do so, any copyrightable material submitted under this grant whether or not the material is copyrighted by the Grantee or another person. The Grantee will only submit materials that the State can use in accordance with this paragraph.

Unless otherwise specified in this Contract, the Grantee may not patent products or processes developed under this Contract.

VII. ASSIGNABILITY

The Grantee shall not assign this Contract or assign or delegate any of its duties or obligations under this Contract to any other party without the prior written consent of the State. The State does not assume responsibility regarding the contractual relationships between the Grantee and any subcontractor.

VIII. SUBCONTRACTS

The State reserves the right to deny the use of any consultant, contractor, associate, or other personnel to perform any portion of the project. The Grantee is solely responsible for all contractual activities performed under this Contract. Further, the State will consider the Grantee to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Grant. All subcontractors used by the Grantee in performing the project shall be subject to the provisions of this Contract and shall be qualified to perform the duties required.

IX. NONDISCRIMINATION

The Grantee shall comply with the Elliott Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended, MCL 37.1101 *et seq.*, and all other federal, state, and local fair employment practices and equal opportunity laws and covenants that it shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Contract, with respect to his or her hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of his or her race, religion, color, national origin, age, sex, height, weight, marital status, or physical or mental disability that is unrelated to the individual's ability to perform the duties of a particular job or position. The Grantee agrees to include in every subcontract entered into for the performance of this Contract this covenant not to discriminate in employment. A breach of this covenant is a material breach of this Contract.

X. UNFAIR LABOR PRACTICES

The Grantee shall comply with the Employers Engaging in Unfair Labor Practices Act, 1980 PA 278, as amended, MCL 423.321 *et seq.*

XI. LIABILITY

- (A) The Grantee, not the State, is responsible for all liabilities as a result of claims, judgments, or costs arising out of activities to be carried out by the Grantee under this Contract, if the liability is caused by the Grantee, any subcontractor, or anyone employed by the Grantee.
- (B) All liability as a result of claims, demands, costs, or judgments arising out of activities to be carried out by the State in the performance of this Contract is the responsibility of the State and not the responsibility of the Grantee if the liability is caused by any State employee or agent.
- (C) In the event that liability arises as a result of activities conducted jointly by the Grantee and the State in fulfillment of their responsibilities under this Contract, such liability is held by the Grantee and the State in relation to each party's responsibilities under these joint activities.
- (D) Nothing in this Contract should be construed as a waiver of any governmental immunity by the Grantee, the State, its agencies, or their employees as provided by statute or court decisions.

XII. CONFLICT OF INTEREST

No government employee, or member of the legislative, judicial, or executive branches, or member of the Grantee's Board of Directors, its employees, partner agencies, or their families shall benefit financially from any part of this Contract.

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XIII. ANTI-LOBBYING

This Contract is funded with state funds. Therefore the Grantee shall not use any of the grant funds awarded in this Contract for the purpose of lobbying as defined in the State of Michigan's lobbying statute, MCL 4.415(2). "Lobbying" means communicating directly with an official of the executive branch of state government or an official in the legislative branch of state government for the purpose of influencing legislative or administrative action." The Grantee shall not use any of the grant funds awarded in this Contract for the purpose of litigation against the State. Further, the Grantee shall require that language of this assurance be included in the award documents of all subawards at all tiers.

XIV. DEBARMENT AND SUSPENSION

By signing this Contract, the Grantee certifies to the best of its knowledge and belief that it, its agents, and its subcontractors:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or the state.
- (2) Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction, as defined in 45 CFR 1185; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
- (3) Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in subsection (2).
- (4) Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.
- (5) Will comply with all applicable requirements of all other state or federal laws, executive orders, regulations, and policies governing this program.

XV. AUDIT AND ACCESS TO RECORDS

The State reserves the right to conduct a programmatic and financial audit of the project, and the State may withhold payment until the audit is satisfactorily completed. The Grantee will be required to maintain all pertinent records and evidence pertaining to this Contract, including grant and any required matching funds, in accordance with generally accepted accounting principles and other procedures specified by the State. The State or any of its duly authorized representatives must have access, upon reasonable notice, to such books, records, documents, and other evidence for the purpose of inspection, audit, and copying. The Grantee will provide proper facilities for such access and inspection. All records must be maintained for a minimum of five years after the final payment has been issued to the Grantee by the State.

XVI. INSURANCE

- (A) The Grantee must maintain insurance or self-insurance that will protect it from claims that may arise from the Grantee's actions under this Contract or from the actions of others for whom the Grantee may be held liable.
- (B) The Grantee must comply with applicable workers' compensation laws while engaging in activities authorized under this Contract.

XVII. OTHER SOURCES OF FUNDING

The Grantee guarantees that any claims for reimbursement made to the State under this Contract must not be financed by any source other than the State under the terms of this Contract. If funding is received through any other source, the Grantee agrees to delete from Grantee's billings, or to immediately refund to the State, the total amount representing such duplication of funding.

XVIII. COMPENSATION

- (A) A breakdown of costs allowed under this Contract is identified in Appendix A. The State will pay the Grantee a total amount not to exceed the amount on page 1 of this Contract, in accordance with Appendix A, and only for expenses incurred. All other costs necessary to complete the project are the sole responsibility of the Grantee.
- (B) Expenses incurred by the Grantee prior to the Start Date or after the End Date of this Contract are not allowed under the Contract, unless otherwise specified in Appendix A.
- (C) The State will approve payment requests after approval of reports and related documentation as required under this Contract.
- (D) The State reserves the right to request additional information necessary to substantiate payment requests.
- (E) Payments under this Contract may be processed by Electronic Funds Transfer (EFT). The Grantee may register to receive payments by EFT at the Contract & Payment Express Web Site (<http://www.cpexpress.state.mi.us>).
- (F) Final payment will be withheld by the State until the project is completed in accordance with Section XIX, Closeout, and Appendix A.

XIX. CLOSEOUT

- (A) A determination of project completion, which may include a site inspection and an audit, shall be made by the State after the Grantee has met any match obligations, satisfactorily completed the activities, and provided products and deliverables described in Appendix A.
- (B) Upon issuance of final payment from the State, the Grantee releases the State of all claims against the State arising under this Contract. Unless otherwise provided in this Contract or by State law, final payment under this Contract shall not constitute a waiver of the State's claims against the Grantee.
- (C) The Grantee shall immediately refund to the State any payments in excess of the costs allowed by this Contract.

XX. CANCELLATION

This Contract may be canceled by the State, upon 30 days written notice, due to Executive Order, budgetary reduction, other lack of funding, upon request by the Grantee, or upon mutual agreement by the State and Grantee. The State reserves the right to provide just and equitable compensation to the Grantee for all satisfactory work completed under this Contract.

XXI. TERMINATION

(A) This Contract may be terminated by the State as follows.

(1) Upon 30 days written notice to the Grantee:

- a. If the Grantee fails to comply with the terms and conditions of the Contract, or with the requirements of the authorizing legislation cited on page 1, or the rules promulgated thereunder, or other applicable law or rules.
- b. If the Grantee knowingly and willingly presents false information to the State for the purpose of obtaining this Contract or any payment under this Contract.
- c. If the State finds that the Grantee, or any of the Grantee's agents or representatives, offered or gave gratuities, favors, or gifts of monetary value to any official, employee, or agent of the State in an attempt to secure a subcontract or favorable treatment in awarding, amending, or making any determinations related to the performance of this Contract.
- d. During the 30-day written notice period, the State shall also withhold payment for any findings under subparagraphs a through c, above.
- e. If the Grantee or any subcontractor, manufacturer, or supplier of the Grantee appears in the register of persons engaging in unfair labor practices that is compiled by the Michigan Department of Labor and Economic Growth or its successor.

(2) Immediately and without further liability to the State if the Grantee, or any agent of the Grantee, or any agent of any subcontract is:

- a. Convicted of a criminal offense incident to the application for or performance of a State, public, or private contract or subcontract;
- b. Convicted of a criminal offense, including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees;
- c. Convicted under State or federal antitrust statutes; or
- d. Convicted of any other criminal offense that, in the sole discretion of the State, reflects on the Grantee's business integrity.
- e. Added to the federal or state Suspension and Debarment list.

(B) If a grant is terminated, the State reserves the right to require the Grantee to repay all or a portion of funds received under this Contract.

XXII. DISCLOSURE OF INFORMATION

All reports and other printed or electronic material prepared by or for the Grantee under the Contract will not be distributed without the prior written consent of the State.]

PROJECT-SPECIFIC REQUIREMENTS – APPENDIX A

Water service to be installed at 245 Birch, Muskegon. Under this agreement, the property will receive a water service line, plumbing connection, meter, well abandonment and property restoration. See the attached Budget Summary and Cost Detail Schedule

PROGRAM BUDGET SUMMARY

Program - ALTERNATE WATER SUPPLY PART 201 OF ACT 451 PA 1994, as amended		Code	Budget Period 12/19/2011 to 3/31/2012	Date Prepared 12/1/2011
Local Agency Muskegon Department of Public Works			Contract 1/2012	
Address: 131 East Apple Avenue, Muskegon, MI 49442			Payee Identification No. 38-6006063	
	CATEGORY			TOTAL BUDGET
1	Salaries & Wages			
2	Fringe Benefits			
3	Travel			
4	Supplies & Materials			
5	Contractual (Subcontracts)			\$9,000
6	Equipment			
7	Other:			
8	TOTAL DIRECT			\$9,000
9	CONTINGENCY			\$ 1,000
10				
11	TOTAL EXPENDITURES			\$10,000
SOURCE OF FUNDS				
12	Fees & Collections			
13	State Agreement			\$10,000
14	Local			
15	Federal			
16	Other			
17	TOTAL FUNDING			\$10,000

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PROGRAM BUDGET - COST DETAIL SCHEDULE

MDEQ 8/96 Rev.

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		Budget Period: 12/19/2011 to 3/31/2012	Date Prepared: 12/1/2011
Local Agency: Muskegon Department of Public Works _____		Budget for Original Agreement	
Description	Quantity	Item Total	Category/ Subcategory Total
CONTRACTUAL			
Water services	1	8,000	
Water well abandonments	1	500	
Restoration		500	
Subtotal			9,000
Contingency			1,000
TOTAL PROJECT BUDGET			10,000

The addresses listed below are eligible for a state funded connection to public water:

245 Birch, Muskegon	
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