

AGENDA REPORT

DATE January 6, 2004

ITEM: INTERLOCAL AGREEMENT AND MANAGEMENT PLAN FOR AGRICULTURAL BUSINESS PARK WATER MAIN EXTENSION, O. F. 1348.2

INITIATED BY: PUBLIC WORKS DEPARTMENT / ENGINEERING DIVISION

ACTION REQUESTED: APPROVE AGREEMENTS

PRESENTED BY: JIM REARDEN, PUBLIC WORKS DIRECTOR

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RECOMMENDATION: Staff recommends approval of the Interlocal Agreement and Management Plan for the Agricultural Business Park Water Main Extension, O. F. 1348.2.

MOTION: "I move the City Commission approve the Interlocal Agreement and Management Plan for the Agricultural Business Park Water Main Extension, O. F. 1348.2, and authorize the City Manager to execute the agreements."

SYNOPSIS: One part of the funding package for the Agricultural Business Park located just north of Great Falls is a Community Development Block Grant (CDBG) administered by Cascade County. The value of this grant is \$400,000. It will help pay for the extension of a 16-inch diameter water main from the Skyline water tank near the intersection of Bootlegger Trail and 36th Avenue Northeast to the Agricultural Business Park. The agreements spell out the duties of the County and City, and are a requirement of the CDBG program.

BACKGROUND: One part of the incentive package provided for the development of the International Malting Company (IMC) plant and the Agricultural Business Park is a Montana Department of Commerce (MDOC) CDBG grant for the water main extension. Under this MDOC program, the counties are the actual grant administrators. Since the main will become a part of the City system and the City has extensive expertise with this type of project, County staff requested City participation in the project. It is clearly in the City's best interest to assist in the project.

Most City duties under these agreements will be handled by the Engineering Division. The duties include review of the engineering consultant's plans and specifications; attendance at key meetings; primary inspection of construction; review of pay requests; and record keeping. The City will also pay for project costs over the \$400,000 grant amount. This will include the consultant engineering and some construction costs. The total City commitment is estimated at \$174,000, and will be provided by the water fund. It is also anticipated that City Community Development Department will assist with the environmental review documents.

Attachments: Interlocal Agreement and Management Plan

INTERLOCAL AGREEMENT
For The
AG PARK ECONOMIC DEVELOPMENT PROJECT
Community Development Block Grant – Economic Development
CDBG Contract #MT-CDBG-ED03-04
City of Great Falls Office File Number 1348.2

This Contract is entered into by the City of Great Falls, herein referred to as the “City,” and Cascade County, herein referred to as the “County.”

WITNESSETH THAT:

WHEREAS, the County is the recipient of a Montana Department of Commerce (“MDOC”) Community Development Block Grant-Economic Development (“CDBG-ED”) sponsored by the City and the County on behalf of IMC for the construction of a water line (“Project”) to the International Malting Company (“IMC”) site located approximately 1 mile northeast of the Great Falls City limits; and

WHEREAS, this Contract between the City and the County will enable them to enhance cooperation in implementing the County’s CDBG-ED award to accomplish the above-described Project for their mutual benefit; and

WHEREAS, the MDOC has required the County to enter into a contract with the City, specifying the terms and conditions of the County’s delegation of certain CDBG-ED responsibilities to the City; and

WHEREAS, both parties to this Contract understand that the local governments involved herein have not in any way, expressly or implied, abrogated any of their individual powers, and that this Contract does not create any new organization or legal entity;

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, the City and the County mutually agree as follows:

I. ACCEPTANCE OF CDBG-ED PROGRAM REQUIREMENTS

The City and the County have reviewed and will comply with the Certifications for Application, which are incorporated by reference herein, as signed and submitted with the Cascade County CDBG-ED Application for the Project. The parties to this Contract shall comply with all applicable parts and requirements of the Acceptance of CDBG Program Requirements as listed in Appendix B of the Application for the Project dated June 27, 2003; all requirements established by the MDOC; applicable state and federal laws, regulations, administrative directives and procedures; and local ordinances and resolutions.

The City and the County agree that CDBG-ED grant funds will be used for the construction of a water main to IMC.

II. THE FOLLOWING DOCUMENTS ARE INCORPORATED INTO THIS AGREEMENT BY REFERENCE BUT NOT ATTACHED HERETO:

- A. The MDOC CDBG-ED Program Description;
- B. The MDOC CDBG-ED Application Guidelines and CDBG Administration Manual (applicable year's version, as amended);
- C. Cascade County's FY2003 Application for CDBG-ED grant assistance (also referred to above as "Application for Project"), and the representations contained therein, which are binding upon the City and the County.
- D. MDOC CDBG-ED Contract #MT-CDBG-ED03-04 entered into by the County and MDOC on behalf of the City and the County, and the terms of which shall be binding upon the City;
- E. Management Plan for MDOC CDBG-ED Contract #MT-CDBG-ED03-04 entered into by the County and MDOC.

III. THE FOLLOWING RESPONSIBILITIES ARE DELEGATED TO THE COUNTY

- A. The County will administer and manage the construction phases (water main extension) of the Project. Specific responsibilities for County Personnel are described in the Management Plan, dated January 2004.
- B. The County will be responsible for all facets of the grant Project, including all applicable state and federal requirements contained in the Certifications for Application submitted to the MDOC with the County's application for CDBG-ED assistance, dated June 27, 2003; and compliance with all other state and federal requirements as described in the Montana CDBG-ED Program Grant Administration Manual.
- C. The County will receive, review, and approve all requests for payment and prepare and submit such requests to the MDOC in a timely fashion in accordance with established procedures.
- D. During the term of this Contract, the County will maintain reasonable records of its performance hereunder in a manner consistent with Generally Accepted Accounting Principles. The County will allow the City and the MDOC, and their authorized representatives, access to these records at any time during normal business hours.

IV. THE FOLLOWING RESPONSIBILITIES ARE DELEGATED TO THE CITY OF GREAT FALLS

- A. The City will review engineering plans and specifications for compliance with Montana Department of Environmental Quality (DEQ) and city requirements.
- B. The City will attend the Pre-Bid and Pre-Construction Conferences; Bid Opening; and monthly construction progress meetings.
- C. The City will monitor and inspect installation of the water main; provide a full time inspector; review contractor pay requests for accuracy prior to submittal to Project

Engineer and the Project Manager; keep daily logs of construction progress; alert Project Engineer when discrepancies are discovered between approved drawings and field conditions; and prepare red-line drawings to assist Project Engineer in the preparation of as-built drawings.

- D. The City will provide funding to cover construction costs over and above the CDBG-ED grant amount, and engineering costs.

V. DURATION OF THE CONTRACT

- A. This Contract takes effect when the following conditions are satisfied:

1. The MDOC and the County Commission have executed the CDBG-ED Grant Agreement;
2. The MDOC has approved the County's "Request for Release of Funds and Certification";
3. The County's attorney and the City's attorney have approved this Contract as to form and content; and
4. The County Commissioners and the City Commission have each reviewed this Contract and agreed fully to its terms and conditions.

VI. ADMINISTRATION

- A. The County will comply with the federal administrative requirements contained in 24 Code of Federal Regulations (CFR), as applicable
- B. The County will carry out each activity under this Contract in compliance with all federal laws and regulations described in the Certifications for Application dated June 27, 2003, signed by Tom Stelling, Chairman, Board of Cascade County Commissioners.
- C. For purposes of implementing the joint undertaking established by this Contract, the County and the City hereby agree to appoint Randall R. Hand as the Project Administrator, who will serve as the head MDOC CDBG-ED contact liaison to provide for the efficient and effective implementation of this Agreement and the activities contained herein.

VII. INDEMNIFICATION

The City waives any and all claims and recourse against the County, including the right of contribution for loss or damage to persons or property arising from, growing out of or in any way connected with or incident to the County's performance of this Contract, except claims arising from the concurrent or sole negligence of the County or its officers, agents, or employees. The County will indemnify, hold harmless, and defend the City against any and all claims, demands, damages, costs, expenses, or liability

arising out of the County's performance of this Contract except for liability arising out of the concurrent or sole negligence of the City or their officers, agents, or employees

VIII. SUSPENSION AND TERMINATION

In accordance with 24 CFR 85.43, the City may suspend or terminate this Contract if the County materially fails to comply with any term of the County's CDBG-ED grant agreement with the MDOC. In addition, the County may terminate this Contract for convenience in accordance with 24 CFR 85.44.

The County's and the City's governing bodies have approved this Contract.

Date

John W. Lawton, City Manager

ATTEST:

Carolyn Horst-Broquist, Deputy City Clerk

APPROVED FOR LEGAL CONTENT:

David V. Gliko, City Attorney

BOARD OF COUNTY COMMISSIONERS,
CASCADE COUNTY, MONTANA

Tom Stelling, Chairman

Peggy S. Beltrone, Commissioner

Lance Olson, Commissioner

Attest

On this ___ day of _____, 200__, I hereby attest the above-written signatures of Tom Stelling, Peggy Beltrone, and Lance Olson, Cascade County Commissioners.

Peggy Carrico, Cascade County Clerk and Recorder

MANAGEMENT PLAN FOR CONTRACT #MT-CDBG-ED03-04

1. Administrative Structure

The County of Cascade is an incorporated County with a Commissioner form of government. The following persons will have lead responsibility for administering the County's FY 03-04 Community Development Block Grant (CDBG) public facilities project for water system improvements.

Chairman Tom Stelling, as the County's chief elected official will have responsibility for all official contacts with the Montana Department of Commerce (MDOC). The County Commission will have ultimate authority and responsibility for the management of project activities and expenditure of CDBG funds. The approval of all contracts and drawdown requests will be the responsibility of the County Commission. (Telephone (406) 454-6810)

Randall R. Hand, as the County's chief financial officer, will be responsible for management of, and record keeping for, the CDBG funds and other funds involved in the financing of the water project. This position will track time spent on this project during the term of the project. (Telephone (406) 454-6731)

Randall R. Hand, Finance Officer, will be designated as Project Manager and be responsible for overall project management and assuring compliance with applicable federal and State requirements for the CDBG project. The Project Manager will serve as the County's liaison with MDOC for the project and will serve as the designated Environmental Certifying Officer and Labor Standards Officer. One-third of this position's time will be devoted to CDBG administration during the term of the project. (Telephone (406) 454-6731)

Greg Bonilla, Chief Deputy Civil Attorney, as the County's legal counsel, will review and advise the County Commission regarding any proposed contractual agreements associated with the CDBG project and provide any other legal guidance as requested. (Telephone (406) 454-6904)

Neil Consultants, Inc. (Joe Murphy), Project Engineer, will be responsible for construction-related activities including preparation of preliminary engineering, final design plans and specifications, as well as assisting the City with construction inspection. Contractor compliance, scheduling, and payment requests will also be subject to the Project Engineer's review and approval. (Telephone (406) 453-5478)

Dave Dobbs, City Engineer, City of Great Falls, will be responsible, in conjunction with Neil Consultants, Inc., for construction inspections.

The Finance Officer attended the MDOC CDBG Grant Administration Workshop.

2. Project Management

- A. The Project Manager will be responsible for:
 - 1. Preparing the Environmental Review Record (ERR) to assure full compliance with the National and Montana Environmental Policy Acts, completion of the statutory checklist, and any other applicable environmental requirements. The Project Manager will also be
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responsible for preparing any legal notices required to be published for the ERR process and conducting any required public hearings or informational meetings.

2. Preparing a request for release of funds to MDOC.
3. Developing a contract with MDOC and assisting the County with all requirements related to effective project start-up and implementation.
4. Establishing and maintaining complete and accurate project files and preparing all documentation and reports incidental to administration of the grant.
5. Assisting the County with selection of the Project Engineer, in conformance with CDBG procurement requirements, including the preparation of requests for proposals for publication or other distribution.
6. Reviewing all proposed project expenditures or requests for payment to ensure their propriety and proper allocation of expenditures to the CDBG budget.
7. Process payment requests and prepare drawdown requests to MDOC, including the Request for Payment and Status of Funds Report and the Project Progress Report.
8. Monitoring the contractor selection process, including the bid advertising, tabulation and award process for conformance to CDBG requirements. The manager will review the construction contract provisions for CDBG compliance and will request MDOC clearance of the lowest and second lowest bidders before a contract is awarded.
9. Attending the pre-construction conference and monthly construction progress meetings.
10. Monitoring contractor compliance with applicable requirements.
11. Serving as the County's designated labor standards officer and assuring compliance with all labor standards requirements. Responsibilities will include the review of weekly payroll reports to assure compliance with Davis-Bacon prevailing wage requirements; periodic visits to the construction site to assure that required equal opportunity, labor standards, and Davis-Bacon wage determinations have been posted; and conducting on-site interviews with construction personnel to assure Davis-Bacon compliance.
12. Assuring compliance with applicable civil rights requirements, including preparation of an equal opportunity plan and a fair housing resolution, which will be adopted by the County.
13. Supervising the delivery of CDBG financial assistance to low and moderate income households for water service hookup and meter installation.
14. Preparing all required performance reports and closeout documents for submittal to MDOC and assist the County with the selection of an independent auditor.
15. Attending County Commission meetings to provide project status reports and representing the CDBG project at any other public meetings, as deemed necessary by the County Commission.

B. The Project Engineer, in conjunction with the City Engineer will be responsible for:

1. Design and construction engineering.
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2. Preparation of the construction bid package in conformance with applicable CDBG requirements and supervision of the bid advertising, tabulation, and award process, including the preparation of the advertisements for bid solicitation, conducting the bid opening, and issuance of the Notice to Proceed.
3. Conducting the pre-construction conference, with the assistance of the Project Manager and City Engineer.
4. Secondary supervision of construction work and preparation of inspection reports in conjunction with City Engineer.
5. Reviewing and approving all contractor requests for payment and submitting the approved requests to the County in conjunction with City Engineer review and approval.

3. Financial Management

- A. The Finance Officer's responsibilities will be as follows:
 1. Establishing the CDBG bank account and transferring CDBG funds from that account to the County's treasury for disbursements, based on claims and supporting documents approved by the Project Manager, Project Engineer, City Engineer, and Contractor. Since the County uses an interest bearing account for its general disbursements, a separate non-interest bearing account will be used for CDBG funds. Balances in that account will not exceed \$5,000 for a period of three days.
 2. Entering all project transactions into the County's existing accounting system (BARS), and prepare checks/warrants for approved expenditures.
 3. With the assistance of the Project Manager, preparing the Request for Payment and Status of Funds Reports to be submitted to MDOC. All drawdown requests will be signed by two of the three County Commissioners. No expenditures will be made without the approval of the Commission at a regular meeting.
 4. With the assistance of the Project Manager, preparing the final financial reports for project closeout.
- B. The Project Manager will review all proposed expenditures of CDBG funds and will prepare drawdown requests, which will be signed by the officials cited above. All disbursements will be handled in accordance with the County's established claim review procedures. Before submitting the claim, the Project Manager will attach a certification to each claim stating that the proposed expenditure is an eligible expense of the County's CDBG project and consistent with the project budget. The County Commission will review all claims before approving them.
- C. Financial record keeping will be done in conformance with the recommendations of MDOC's Community Development Division as described in Chapter 4 of the CDBG Administration Manual. The original financial documents (claims with attached supporting material) will be retained in the County's offices.
- D. Hourly timesheets will be maintained by the Project Manager and assistants to document all time worked on the CDBG project.

A project implementation schedule, which outlines the basic steps and timetable involved in the management of the project, is attached.

- E. Weekly timesheets will be maintained by the Project Manager to document all time worked on the CDBG project.

A project implementation schedule, which outlines the basic steps and timetable involved in the management of the project, is attached.

KEY TO ABBREVIATIONS:

ERR - Environmental Review Record
MDOC - Montana Department of Commerce
RROF - Request for Release of Funds
DEQ - Montana Department of Environmental Quality

PROJECT IMPLEMENTATION SCHEDULE

A. START-UP

1.	Attend MDOC Workshop	Finance Officer	October	2003
2.	Prepare Management Plan	Commission and Project Mg.	November	2003
3.	Establish Project Files	Project Manager	November	2003
4.	Award Engineering Contract	County Commission	November	2003
5.	Determine Audit Requirements	Project Manager	October	2003
6.	Schedule Local Govt. Audit	Project Manager	July	2003
7.	Authorize Preliminary Design	City Engineer	November	2003
8.	Complete ERR	Project Manager	December	2003
9.	Complete Preliminary Design	Project Engineer	January	2004

B. IMPLEMENTATION

1.	Submit First Drawdown	Project Manager	January	2004
2.	Authorize Final Design	Project Engineer	February	2004
3.	Complete Final Plans	Project Engineer	March	2004
4.	Submit Plans to DEQ and CDBG	Project Engineer	March	2004
5.	Secure Wage Determination	Project Engineer	April	2004
6.	Prepare Bid Documents and Secure CDBG Approval	Project Engineer	March	2004
7.	Advertise For Bids	County Commission	April	2004

8.	Bid Opening	Project Engineer	May	2004
9.	Clearance of Low Bidders	Project Engineer	May	2004
10.	Bid Award	County Commission	May	2004

C. CONSTRUCTION

1.	Pre-construction Conference	Project Engineer	May	2004
2.	Submit Compliance Documents	Project Engineer	May	2004
3.	Start Construction	Project Engineer	June	2004
4.	Labor Standards Monitoring	Project Manager	June-Aug	2004
5.	Submit Drawdowns and Progress Reports	Project Manager Clerk-Treasurer	Ongoing As Needed	
6.	Final Inspection	Project Engineer	August	2004
7.	Final Payment to Contractor	County Commission	September	2004
8.	In-service System Training	Project Engineer	September	2004
9.	Final Payment to Engineer	County Commission	September	2004

D. CLOSEOUT

1.	Project Closeout Begins	Project Manager	September	2004
2.	Project Completion Report	Project Manager	October	2004

Date

John W. Lawton, City Manager

ATTEST:

Carolyn Horst-Broquist, Deputy City Clerk

APPROVED FOR LEGAL CONTENT:

David V. Gliko, City Attorney

BOARD OF COUNTY COMMISSIONERS,
CASCADE COUNTY, MONTANA

Tom Stelling, Chairman

Peggy S. Beltrone, Commissioner

Lance Olson, Commissioner

Attest

On this ____ day of _____, 200__, I hereby attest the above-written signatures of Tom Stelling, Peggy Beltrone, and Lance Olson, Cascade County Commissioners.

Peggy Carrico, Cascade County Clerk and Recorder
