

FUNDING AGREEMENT

GRANT NO. 20-559131-CB208

CITY OF GAHANNA BEDFORD LANDFILL 1 BROWNFIELD PROJECT PHASE 2-Engineering and Environmental Permitting Project [FY2002-C0039040]

This Agreement is entered into as of the date indicated in the Time of Performance by and between the Board of County Commissioners, Franklin County, Ohio (County), and the Subrecipient i.e. that is, The City of Gahanna executing this Agreement.

WITNESSETH THAT:

WHEREAS, pursuant to Title I of the Housing and Community Development Acts of 1974, as amended (called "The Act"), the Subrecipient has applied for and received a Community Development Block Grant (CDBG) for certain community development activities; and

WHEREAS, the Subrecipient has entered into a Cooperation Agreement with the County for the purpose of making application for Community Development Block Grant funds; and

WHEREAS, the County is a grantee of funds from the United States Department of Housing and Urban Development, hereinafter referred to as "HUD," responsible for the development, implementation, administration, and evaluation of HUD's Community Development Block Grant program, hereinafter referred to as "CDBG", in Franklin County, exclusive of the City of Columbus; and

WHEREAS, by Resolution, the Board of Franklin County Commissioners approved allocations for its FY 2002 CDBG program and published a Final Statement of Activities and List of Projects; and

WHEREAS, It is necessary that the County and the Subrecipient enter into an Agreement for the implementation of approved projects; and

WHEREAS, the Cooperation Agreement between the County and the Subrecipient permits the County to implement projects located within the boundaries of the Subrecipient.

NOW, THEREFORE, the parties do hereto mutually agree as follows:

1. **CONTRACT WITH SUBRECIPIENT:** The County hereby agrees to engage the Subrecipient, and the Subrecipient hereby agrees to perform the services hereinafter set forth in connection with the County CDBG program under a grant and contract from U.S. HUD and to be subject to the terms and conditions of said grant to the County by HUD and in conformity with all applicable federal, state, and local laws to which Subrecipient and its employees are subject.

2. SCOPE OF SERVICES: The Subrecipient hereby agrees to use CDBG program funds for the purpose of implementing the activity described in Attachment I- Statement of Work or Scope of Services, which is attached hereto and made a part hereof as if fully rewritten. Changes to Attachment I – Scope of Services, may be requested from time to time by either the County or the Subrecipient, and shall be incorporated in written amendments to this Agreement.
3. NATIONAL OBJECTIVES: The Subrecipient certifies that the County's CDBG program provided for herein gives maximum feasible priority to activities which benefit low or moderate income families or aid in the prevention or elimination of slums and blight. The statement of work shall include a description of the work to be performed, a schedule for completing the work and a budget.
4. TIME OF PERFORMANCE: The effective date of the Agreement shall be September 16, 2002 through April 30, 2003 at which time all work must be satisfactorily completed in compliance with this Agreement. The responsibilities of the Subrecipient are to commence upon the effective date of this Agreement. However, communities will have a 30-day grace period to submit a request for final payment, or until May 31, 2003. It should be understood that Franklin County would not honor any requests for reimbursement received after May 31, 2003. They will instead become obligations of the Subrecipient.
5. COMPENSATION: The County shall compensate the Subrecipient 50% of all expenditures made in accordance with the professional services set forth in Attachment I – Scope of Services in an amount not to exceed \$150,000.
 - A. CDBG Grant: The County shall allocate funding from its FY-2002 CDBG entitlement in the amount of One Hundred Fifty Thousand Dollars (\$150,000) only for the professional services to prepare the BEDFORD LANDFILL 1 BROWNFIELD PROJECT PHASE 2-Engineering and Environmental Permitting Project.
6. METHOD OF PAYMENT: Subject to receipt of funds from the U.S. Treasury, the County agrees to reimburse the Subrecipient for authorized expenditures for which vouchers and other similar documentation to support payment expenses are maintained under those generally accepted accounting principles and procedures approved by the County and outlined in 24 CFR Part 85 the "Common Rule" and the Federal Office of Management and Budget Circular A-87 - Cost Principles for State and Local Governments. Such documentation shall be submitted to the County through Community and Economic Development Department (C&EDD). Payment shall be made within thirty (30) days of receipt by the County of a statement of expenses for satisfactorily completed work providing that funds for the project have been deposited with the County by the U.S. Treasury.

The Subrecipient further agrees to comply with all the uniform administrative requirements described in 24 CFR Section 570.502.

A. Restriction on Disbursements:

- 1) No money shall be disbursed from the County to Subrecipient if County has determined that Subrecipient and its Contractor(s) are not in compliance with applicable U.S. HUD and County Accounting, Fiscal, Environmental, EEO and Federal Labor requirements.
- 2) No money shall be disbursed from the Subrecipient to Contractor unless the Contractor has met all requirements under the County CDBG Program or applicable Federal, State, and Local law.

B. Documents of Costs: All costs shall be recorded by budget line items and be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charge. All checks, payrolls, invoices, contracts, vouchers, or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.

7. EXCESS FUNDS: Any and all unspent excess funds will be returned back to the County and may only be expended for eligible CDBG activities as identified in HUD implementing regulation 570.200 - Basic Eligible Activities, in accordance with Section 105 of Title V of the Housing Community Development Act of 1987.
8. ACKNOWLEDGEMENT OF FRANKLIN COUNTY: The Subrecipient will acknowledge the Franklin County Commissioners in all meetings and in publicity settings through any of the news media, newsletters and flyers or in lecture or information speeches by Subrecipient officers or program staff. The Subrecipient shall state on all letterhead, flyers, signs, displays, and newsletters that they are a Subrecipient of the County.
9. RECORDS TO BE MAINTAINED/AUDITS/ACCESS TO RECORDS: The Subrecipient agrees and understands that the expense of performing inspections and audits required by HUD are part of the project costs. It will give HUD and the Controller General or any authorized representatives access to and the right to examine and copy all records, books, papers, or documents related to the grant, and it will maintain such records, books, papers or documents for three (3) years after the close of the Project.

All projects and programs funded under this Agreement are subject to on-site monitoring by an agent of Franklin County or any County employee.

10. SINGLE AUDIT DUE TO C&EDD: The next Single Audit governing the period of this Agreement must be submitted to C&EDD for review.
11. INDEMNIFICATION: Subrecipient agrees to protect, defend, indemnify and save harmless the County from and against any and all liability, damages, claims, suits, liens and judgments of whatever nature including but not limited to claims for contributions and/or indemnification for injuries to or death of any person or persons, caused by, in connection with or arising out of any activities undertaken pursuant to this Agreement. Subrecipient's obligation to protect, defend, indemnify and save harmless as set forth in this paragraph, shall include any and all attorney's fees incurred by the County, in the defense and/or handling of said suits, demands, judgments, liens, claims and the like and all attorney's fees and investigation expenses incurred by County in enforcing and/or obtaining compliance with the provisions of this paragraph.

Subrecipient further agrees to protect, defend, indemnify and save harmless the County from any claims against or liability for compensation under the Workmen's Compensation Act arising out of injuries sustained by any employees of Subrecipient or of any licensees, Contractors or Subcontractors of Subrecipient.

Subrecipient will reimburse the County for any judgments that may be obtained against the County resulting from the work hereunder or the use of any work product of the Subrecipient including judgments for infringement of patent or copyright rights. Subrecipient agrees to defend against any such claims if legal actions of called upon by the County to do so.

12. TERMINATION FOR CAUSE: The County may terminate this Agreement and such additional supplemental agreements hereafter executed, in whole or in part, and may recover any CDBG funds at its discretion if the Subrecipient:

- A. Violates any provision of this Agreement;
- B. Violates any provision of the Housing and Community Development Acts of 1974 and 1977, as amended;
- C. Violates any applicable regulations or terms and conditions of approval of the applications which the Secretary of HUD has issued or shall subsequently issue during the period of this Agreement; or
- D. Fails to complete the project in a timely manner.

Notwithstanding the above, the Subrecipient shall not be relieved of liability to the County for damage sustained by the County by virtue of any breach of the Contract by the Subrecipient and the County may withhold any payments to the Subrecipient for this purpose until such time as the exact amount of damages due the County from the Subrecipient is determined as complete liquidated damages for the termination of this Contract.

13. TERMINATION FOR CONVENIENCE: The County may also terminate this Agreement and such additional supplemental agreements hereafter executed, in whole or in part, by giving the Subrecipient thirty (30) days written notice, in the event that the Secretary of HUD:

- A. Withdraws funds allocated to the County under its application for program activities that substantially prevent performance of the County's CDBG program;
- B. Terminates the County's funding allocation pursuant to an Act of Congress; or
- C. Fails to approve a grant application filed by the County.

The Subrecipient may terminate this Agreement after holding a public hearing (subject to proper notification of their citizens and the media) and obtaining citizen input into dropping an approved project under this Agreement.

14. REVERSION OF ASSETS: Upon expiration or termination of this Agreement, the Subrecipient shall transfer to the County any unspent excess CDBG funds.

15. EQUAL OPPORTUNITY:
The Subrecipient agrees to comply with;

- A. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and the HUD regulations under 24 CFR Part 1 that no person in the United States shall, on the grounds of race, color, or national origin, be otherwise subjected to discrimination under any program or activity receiving federal financial assistance by way of grant, loan, or contract and will immediately take any measures necessary to effectuate this Agreement. If any real property or structure thereof is provided or improved with the aid of federal financial assistance extended to the Subrecipient, this assurance shall obligate the Subrecipient, or in the case of any transfer of such property or

structure is used for a purpose of which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

B. Title VIII of the Civil Rights Act of 1968 (P.L. 90-284), amended by the Housing and Community Development Acts of 1974 and 1977, and the Fair Housing Amendment Act of 1988 will administer all program and activities relating to housing and community development in a manner to affirmatively further fair housing throughout the United States.

C. Section 109 of the Housing and Community Development Act of 1974 and 1977, as amended, and in conformance with all requirements imposed by or pursuant to the regulations of HUD (24CFR part 570.601) issued pursuant to that Section; and in accordance with equal opportunity obligations of that Section, no person in the United States shall, on the grounds of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, any program or activity funded in whole or in part with the community development funds.

16. COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS: The Subrecipient agrees to comply with the provisions of the National Environmental Policy Act of 1969 insofar as the provisions of such Act apply to activities set forth in Attachment I - Statement of Work. The County agrees to assume responsibility for preparing Environmental Assessments and Environmental Impact Statements as required.

17. COMPLIANCE WITH FLOOD DISASTER PROTECTION ACT: This Agreement is subject to the requirements of the Flood Protection Act of 1973 (P.L. 93-234). No portion of the assistance provided under this Agreement is approved for acquisition of construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the national flood insurance program pursuant to Section 201 (d) of said Act; and the use of any assistance provided under this Agreement for such acquisition or construction in such identified areas in communities then participating in the national flood insurance program shall be subject to the mandatory purchase of flood insurance requirements of Section 102 (a) of said Act.

18. HATCH ACT: The Subrecipient agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

19. CONFLICT OF INTEREST: The Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct, or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Grantee, or of any designated public agencies or Subrecipient that are receiving funds under the CDBG Entitlement program.

20. LOBBYING: The Subrecipient hereby certifies that:

A. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any

federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;

- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- C. It will require that the language of paragraph (d) of this certification be included in the award documents for all awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly; and
- D. Lobbying Certification - (Paragraph d)
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- 21. RELIGIOUS ORGANIZATION: The Subrecipient agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the federal regulations specified in 24 CFR 570.200(j).
- 22. ACQUISITION/RELOCATIONS: If projects involve the acquisition of real property, they are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act (PL 91-646) and applicable HUD regulations (24 CFR Part 42) to or for families, individuals, partnerships, corporations or associations displaced as a result of any acquisition of real property for an activity assisted under the Housing and Community Development program. Affected persons shall be informed of the policies and procedures of the relocation program.

If projects involve the sale, lease or other transfer of land acquired, cleared or improved with assistance provided under the County's CDBG program, they are subject to a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination upon the basis of race, color, religion, sex or national origin, in the sale, lease or rental, or in the use of occupancy of such land or any improvements erected or to be erected thereon, and provided that the Subrecipient, Franklin County and the U.S. are beneficiaries of and entitled to enforce such covenant.

The following standards shall apply to real property acquired or improved in whole or in part using CDBG funds that is within the control of a participating unit of local government:

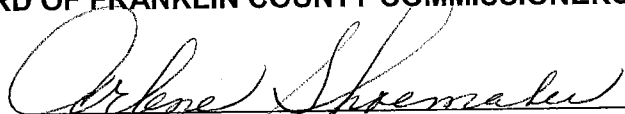
- A. The Subrecipient will notify the County as soon as it knows of any modifications or changes in the use of the real property from that planned at the time of acquisition or improvement including disposition;

- B. The Subrecipient will be required to reimburse the County in the full amount equal to the current fair market value (less any portion thereof attributable to expenditures of non-CDBG funds) of property acquired or improved with CDBG funds that is sold or transferred for a use which does not qualify under the CDBG regulations.
23. AGREEMENT: If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this agreement shall nevertheless be in full force and effect. This agreement between the County and the Subrecipient for the Franklin County CDBG program is designated as project number 20-559131-CB208 and will be in effect upon signing. The Subrecipient further agrees to comply with all program requirements of 24 CFR Part 570 subpart K that are not herein before addressed.


The County and the Community have executed this Agreement as of the date first above written.

BOARD OF FRANKLIN COUNTY COMMISSIONERS

BY:

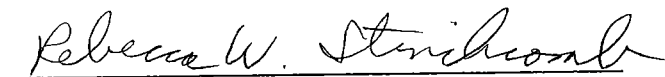

ARLENE SHOEMAKER, President


DEWEY R. STOKES


MARY JO KILROY
BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, OHIO

SUBRECIPIENT

BY:



TITLE:


(Chief Executive Officer/Designated Official)

APPROVED AS TO FORM:


Assistant County Prosecutor

ATTACHMENT I – SCOPE OF SERVICES

GRANT NO. 20-559131-CB208

CITY OF GAHANNA BEDFORD LANDFILL 1 BROWNFIELD PROJECT PHASE 2-Engineering and Environmental Permitting Project [FY2002-C0039040]

Project Description:

The City of Gahanna will contract with a qualified engineering firm to conduct a study and design a closure plan for the Bedford 1 landfill. This study will result in completed engineering drawings and related documentation required by the Ohio EPA in order to meet their standards for landfill closure. In the alternative, a closure plan that meets VAP or memorandum of understanding standards for closure of Bedford 1 landfill are also sufficient. This funding is being awarded upon the basis that the City of Gahanna will actively facilitate the ultimate closure of the landfill and the site's redevelopment with a new economic development generating activity.

This project is more fully described in Addendum 2 STANDARD FORM AGREEMENT FOR ENGINEERING SERVICES BETWEEN THE CITY OF GAHANNA AND M-E COMPANIES, INC. PHASE 2, attached.

Project Area:

The project is located within the City of Gahanna. Bedford Landfill #1 is located on the north side of Claycraft Road between Morrison Road and Science Boulevard and comprises approximately 80 acres of property.

Project Schedule:

The City will execute a contract with M-E Companies of 635 Brooksedge Boulevard, Westerville, OH 43081 to perform these services. This contract was an extension of a preexisting contract and working relationship. The project schedule is from Fall Quarter, 2002 to Spring Quarter, 2003.

Program Change:

Changes to this Attachment I-Work Program may be requested from time to time by either the county or the Community, and shall be incorporated in written amendments to this agreement.

ATTACHMENT II - WORK PROGRAM BUDGET

GRANT NO. 20-559131-CB208

**CITY OF GAHANNA BEDFORD LANDFILL 1 BROWNFIELD PROJECT
PHASE 2-Engineering and Environmental Permitting Project
[FY2002-C0039040]**

A total of \$ 200,000 was approved for Brownfield Development Implementation. The City of Gahanna was approved for \$150,000 for the BEDFORD 1 LANDFILL PHASE 2-Engineering and Environmental Permitting Project in Franklin County's CDBG program for Fiscal Year 2002 CDBG Funding.

This grant covers professional environmental engineering design services for the landfill closure and program guidelines require at least a 50% local match.

The attached engineering estimate shows the total design costs to be \$300,000. Based on this estimate, CDBG funds will cover a maximum of 50% of the actual cost not to exceed \$150,000. Fundable line items are itemized below. Upon completion of the project any unused funds will be returned to the County's CDBG program. CDBG funding shall only be earmarked to reimburse approved items according to the Project Line Item Breakdown listed below.

Estimated Design costs¹:

Franklin County CDBG Funds	\$ 150,000	50%
Subrecipient, Local Match Required	\$ 150,000	50%
Total Cost	<u>\$ 300,000</u>	100%

Project Line Item Breakdown

A1.01		
C-Brownfields Grant/Loan Application	\$ 30,000	non-fundable
D-Public Relations/Public Support	\$ 25,000	non-fundable
E-Title Search/Property Assessment	\$ 8,000	non-fundable
F-Property Broker Consultation	\$ 10,000	non-fundable
A1.02		
A-Closure Design/Permitting		
Engineering	\$ 135,000	fundable
Hydrogeology	<u>\$ 92,000</u>	fundable
	\$ 300,000	

NOTE: The Community will expend no program funds until Franklin County obtains release of funds and the Community has received notification.

¹Based on the selected consultant's proposal (attached).