

**DELHI CHARTER TOWNSHIP BROWNFIELD REDEVELOPMENT AUTHORITY MEETING**

**Meeting location – Community Services Center**

**2074 Aurelius Road, Holt, MI**

**Tuesday, June 28, 2022**

**Immediately following DDA Board Meeting**

**AGENDA**

**Call to Order**

**Roll Call**

**Comments from the Public**

ANYONE WISHING TO COMMENT ON ANY MATTER NOT ON THE AGENDA MAY DO SO AT THIS TIME. PERSONS ADDRESSING THE BOARD MUST STATE THEIR NAME AND ADDRESS FOR THE RECORD AND WILL BE GIVEN TWO (2) MINUTES.

**Set/Adjust Agenda**

**Business**

1. First Amendment to Agreement in Support of Brownfield Contract – Esker Square

**Limited Comments**

MEMBERS OF THE PUBLIC MAY TAKE THE OPPORTUNITY TO ADDRESS THE BOARD REGARDING ANY ITEM ON THE AGENDA AT THE TIME SUCH ITEM IS OPEN FOR DISCUSSION BY THE BOARD. ANYONE WISHING TO COMMENT ON ANY MATTER NOT ON THE AGENDA MAY DO SO AT THIS TIME.

**Adjournment**



**DELHI CHARTER TOWNSHIP  
DOWNTOWN DEVELOPMENT AUTHORITY**

4410 HOLT ROAD, HOLT, MI 48842  
TELEPHONE (517) 699-3866  
FACSIMILE (517) 699-3878  
www.delhidda.com  
dda@delhitownship.com

June 21, 2022

To: BRA Board Members

From: C. Howard Haas, Executive Director

Re: First Amendment to Agreement in Support of Brownfield Grant Contract – Esker Square

Esker Square construction has reached a point where the developer has opted to construct the second building in conjunction with the construction of the first building. The Brownfield Redevelopment Authority acquired a Brownfield Grant from Michigan Department of Environment, Great Lakes & Energy (EGLE) for the installation of the Vapor Mitigation System (VMS). A VMS is also required for Phase II. We have reached out to EGLE to determine if they would support an amendment to the Brownfield Grant for additional time and funding for Phase II. We have agreed to extend the contract for an additional twenty-four (24) months to June 19, 2025 and an additional \$250,000 for covering further response and due care activities as part of the second phase of construction.

Once the Brownfield Redevelopment Authority approves this amendment, we will receive an amendment to the Brownfield Contract from EGLE.

**Recommended Motion: I move to approve the First Amendment to Agreement in Support of Brownfield Grant Contract between 2000 Cedar, LLC, Triterra, LLC, and the Delhi Charter Township Brownfield Redevelopment Authority. I further authorize the Executive Director to execute the Amendment to the Brownfield Contract.**

## **FIRST AMENDMENT TO AGREEMENT IN SUPPORT OF BROWNFIELD CONTRACT**

This First Amendment to Agreement in Support of Brownfield Contract ("First Amendment") is entered into on \_\_\_\_\_, 2022 by and among 2000 Cedar, LLC ("2000 Cedar"), a limited liability company, having an address of 1629 E. Michigan Avenue, Suite 103, Lansing, Michigan 48912; Triterra, LLC ("Triterra"), a limited liability company, having an address of 1305 S. Washington Avenue, Suite 102, Lansing, Michigan 48910; and the Delhi Charter Township Brownfield Redevelopment Authority ("BRDA"), having an address of 4410 Holt Road, Holt, Michigan 48842.

### RECITALS

- A. The Parties previously entered into an Agreement in Support of Brownfield Grant Contract on July 2, 2018 ("Agreement") in order to facilitate and carry out a Brownfield Grant Contract provided by the Michigan Department of Environment, Great Lakes and Energy ("EGLE," previously known as Michigan Department of Environmental Quality or MDEQ) to fund certain due care and response activities for the redevelopment of the 2000 Cedar Block.
- B. The Parties acknowledge that improvements are underway on the 2000 Cedar Block, including certain response and due care activities as part of the first phase of the 2000 Cedar Block redevelopment.
- C. The Parties acknowledge that several amendments of the Brownfield Grant Contract have occurred and that 2000 Cedar has requested that the Authority seek an additional \$250,000 to cover further response and due care activities as part of the second phase of the 2000 Cedar Block redevelopment.
- D. The BRDA has requested a further amendment of Brownfield Grant Contract from EGLE to receive an additional \$250,000 for covering further response and due care activities as part of the second phase of 2000 Cedar redevelopment and to extend the contract for an additional twenty four (24) months to June 19, 2025.
- E. The Parties acknowledge that this Amendment is necessary for extending the authority for the BRDA and the environmental consultant, Triterra, to enter the property for conducting further response and due care activities related to the project.

### AGREEMENTS

For valuable consideration, the Parties agree in this First Amendment as follows:

1. The second paragraph of the Agreement is deleted and replaced in its entirety as follows:

In addition to the original \$249,000 of grant funds allocated and being spent as part of the first phase of the 2000 Cedar Block redevelopment, the Parties agree that the

rights and obligations conferred by this First Amendment are contingent upon the availability of the full \$250,000 of additional grant funds to carry out further response and due care activities as part of the second phase of the 2000 Cedar Block project in an acceptable amendment of the Brownfield Grant Contract.

2. Except as otherwise stated in this First Amendment, the remaining provisions and terms in the Agreement are and remain effective and in force.

2000 CEDAR, LLC

By: \_\_\_\_\_

Name: Scott Gillespie

Its: Managing Member for Limited Liability Company

Delhi Charter Township BROWNFIELD REDEVELOPMENT  
AUTHORITY

By: \_\_\_\_\_

Name: C. Howard Haas

Its: Executive Director

TRITERRA, LLC

By: \_\_\_\_\_

Name: David A. VanHaaren

Its: Director/Economic Development

## AGREEMENT IN SUPPORT OF BROWNFIELD GRANT CONTRACT

This Agreement in Support of Brownfield Grant Contract ("Agreement") is entered into on July 2, 2018 by and among 2000 Cedar, LLC, a limited liability company, having an address of 329 S. Washington, Suite i, Lansing, Michigan 48933; Triterra, LLC, a limited liability company, having an address of 1375 S. Washington, Suite 300, Lansing, Michigan 48910; and the Delhi Charter Township Brownfield Redevelopment Authority having an address of 2045 Cedar Street, Holt, Michigan 48842.

### RECITALS

- A. The Delhi Charter Township Brownfield Redevelopment Authority ("Authority") has received a Brownfield Grant Contract from the Michigan Department of Environmental Quality ("MDEQ") to fund environmental activities supporting redevelopment and reuse of properties defined as brownfields.
- B. The Authority has received a grant to facilitate the reuse of the 2000 Cedar Block as further described in the attached Exhibit A.
- C. The 2000 Cedar Block, which is owned by 2000 Cedar Block, LLC ("2000 Cedar"), is legally described on Exhibit B attached hereto ("Property").
- D. The Authority has determined that the Property is a brownfield eligible for response and other eligible activities using funds from the Authority's Brownfield Grant Contract.
- E. Triterra, LLC ("TriTerra") is willing to perform on behalf of the Authority in accordance with the Brownfield Grant Contract and to receive compensation in accordance with that Contract.
- F. The Agreement is made by and among the Authority, 2000 Cedar and Triterra to provide the Authority and environmental consultant, Triterra, permission to enter the Property for the exclusive purpose of conducting certain environmental, response, due care and other activities described below and to set forth the Parties' obligations.

For valuable consideration, the parties agree as follows:

- 1. Triterra will assist the Authority as necessary to fulfill the Brownfield Grant Contract, will comply with all laws, regulations, legal requirements and contractual requirements of the Brownfield Grant Contract, and will perform the Activities consistent with that level of care and skill ordinarily exercised by other consultants and engineers practicing in the same discipline and locale under similar circumstances at the time the Activities are performed.
- 2. The rights and obligations conferred by this Agreement are contingent upon the availability of the full \$249,000.00 of Grant Funds allocated to the Scope of Work and

final execution of the Brownfield Grant Contract, by the appropriate parties, all of which are conditions precedent to the effectuation of this Agreement.

3. 2000 Cedar hereby grants permission to the Authority and Triterra and their respective employees, agents, officials, representatives, consultants, contractors, and/or subcontractors ("Authorized Parties") to enter the Property pursuant to this Agreement.
4. 2000 Cedar represents and warrants that it is sole and rightful owner of the Property.
5. The Property access granted by 2000 Cedar under this Agreement is contemplated to be used by the Authorized Parties to perform the activities and tasks described in documents attached as Exhibit C subject to approval by the MDEQ (hereafter collectively referred to as the "Activities") which Exhibit is incorporated by reference into this Agreement.
6. Authorized Parties will enter the Property only at times agreed upon with 2000 Cedar in advance of on-site Activities. Unless otherwise agreed, 2000 Cedar shall make all necessary arrangement with lessees, tenants, or other entities or individuals that may be present on the Property to facilitate the Activities of the Authorized Parties.
7. In exercising its access privileges, Authorized Parties will take reasonable steps not to interfere with the 2000 Cedar operations on the Property, as well as the operations of lessees and tenants on the Property.
8. To allow Triterra to perform soil removal and complete appropriate gas vapor mitigation systems designs and efficiently complete installation and evaluation of the system, 2000 Cedar promptly will provide Triterra with details of its planned usage of the building, including but not limited to locations of all equipment, machines and utilities; work flow and scheduled for installation of same; location, design and schedule for all building and other facilities modification or improvements; and flow of materials and product during production. 2000 Cedar also will promptly notify Triterra of any planned changes to the foregoing. To the extent feasible, Triterra will coordinate investigations and soil removal and the installation of gas vapor mitigation systems to minimize negative impacts on 2000 Cedar's operations on the Property.
9. 2000 Cedar shall inform Authorized Parties of any knowledge of known Property conditions that pose health and safety concerns to individuals performing environmental assessment activities on the Property, including, but not limited to: unstable conditions within Property structures, locations of private underground utilities, locations of underground structures, area of known chemical storage or contamination, and any other known defects with the Property that may cause any type of damage to persons and/or equipment on the Property.
10. 2000 Cedar shall inform Authorized Parties of any restrictions on activities and/or interaction with lessees or tenants at the Property at the time this Agreement is executed and each time Owner is provided notice of intent for Authorized Parties to conduct Activities on the Property. Upon completion of Activities, Authorized Parties will restore

the Property as near as practicable to its condition immediately prior to the commencement of such activities, except 2000 Cedar agrees that it shall not seek any recourse against the Authority or the Delhi Charter Township or their office holders, employees or agents for any alleged failure to restore the Property.

11. Triterra shall be compensated for services rendered in accordance with procedures established by the Brownfield Grant Contract, and its services shall be subject to conditions and limitations of that Contract, including such review and oversight by the Authority required under the Brownfield Grant Contract. In no event is the Authority obligated to pay for any services provided by Triterra, except through monies paid by the State of Michigan through the Brownfield Grant Contract.
12. The Authority shall arrange for 2000 Cedar to receive copies of test data, test results and other related information regarding the Activities as they are made available to the Authority and the MDEQ. It is understood that all reports, copies of test data, test results, and other related information, which are received and/or produced as a result of the Activities are subject to disclosure under public records law, and that Authorized Parties may be further obligated under law to provide regulatory authorities some or all test data or assessment results and findings produced and/or received during Activities at the Property.
13. 2000 Cedar agrees to indemnify, hold the Authorized Parties and the Delhi Charter Township and their officeholders, employees or agents harmless, and defend them all from losses, costs, expenses, damages, liabilities, obligations, penalties, fines, actions, causes of actions, suits, and all other claims whatsoever, of any kind or nature, including reasonable attorney fees, brought or made for or on account of any breach of this Agreement or any negligent or willful acts or omissions of 2000 Cedar and its employees, agents, contractors, tenants or assignees or any disclosure or release of data, information, results, findings, conclusions, or recommendations arising from Activities performed by the Authorized Parties.

Triterra agrees to indemnify, hold 2000 Cedar, the Authority and the Delhi Charter Township and their officeholders, employees or agent harmless, and defend 2000 Cedar, the Authority and the Delhi Charter Township and their officeholders, employees or agents from losses, costs, expenses, damages, liabilities, obligations, penalties, fines, actions, causes of actions, suits, and all other claim whatsoever, of any kind or nature, including reasonable attorney fees, brought or made for or on account of any breach of this Agreement or any negligent or willful acts or omissions of Triterra, its employees, agents, contractors, successors or assignees.

14. Triterra shall provide the Authority certificates of insurance which proves Triterra and any contractors its uses have not less than \$1,000,000 coverage for comprehensive general liability, pollution liability and property damage and proof of workers compensation insurance and any other insurances necessary for compliance with the Brownfield Grant Contract. Triterra's professional liability insurance coverage is in an amount not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

Triterra and its contractors shall maintain such insurance for the term of the Agreement. To the extent possible, Triterra and its contractors shall include the Authority and the Delhi Charter Township as additional insureds for the above stated insurances.

15. It is affirmatively represented that the undersigned 2000 Cedar has had ample opportunity to review and evaluate the potential ramifications and/or consequences related to the Activities to be performed on the Property as described herein and to seek independent legal advice and counsel, if so desired, prior to the execution of this Agreement.
16. 2000 Cedar covenants not to sue the Authority and the Delhi Charter Township and their officeholders, employees or agents for and from any and all claims, liabilities, damages, and costs (including reasonable attorneys fees and costs) arising in any way from the Activities, except 2000 Cedar reserves the right to do so against Triterra to the extent caused by the negligence or willful misconduct of Triterra and its employees, agents, contractors, successors or assignees. However, Triterra will not be liable to 2000 Cedar or its officers, directors, employees and customers for any special, consequential, incidental or penal losses or damages, including but not limited to losses, damages or claims related to the unavailability of property or facilities, shutdowns or service interruptions, loss of use, profits, revenue, or inventory, or for use charges or cost of capital of the other party and/or its officers, directors, employees or customers.
17. 2000 Cedar, to the extent required, shall sign any manifests or other documents reasonably necessary for the proper removal and disposal of material from the Property due to Activities on the Property.
18. 2000 Cedar will repair any and all damage to the gas vapor mitigation systems installed in connection with Section 3 above only to the extent such damage is caused by the actions of 2000 Cedar and its employees, contractors, or suppliers or by its failures to adequately protect the mitigation systems from such damage. Such repairs are not part of the Activities.
19. Any disputes under this Agreement not otherwise resolved informally may be referred by either party to a court of competent jurisdiction in Ingham County.
20. This Agreement shall be governed by the laws of Michigan, exclusive of any conflict of law provisions.
21. No Triterra employee or agent is or shall be considered to be an employee of the Authority. The Authority shall neither have nor exercise any control or direction over Triterra's employees or agents, except as provided in the Brownfield Grant Contract or this Agreement.
22. The Parties shall execute such other reasonable agreements as necessary to carry out the Brownfield Grant Contract and shall cooperate in the implementation of this Contract and in the administration of Amended Brownfield Plan #4, which may require amendment to

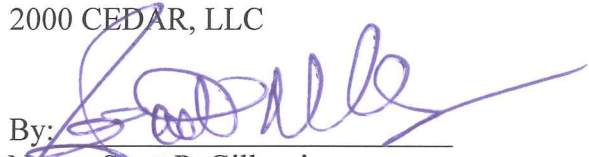


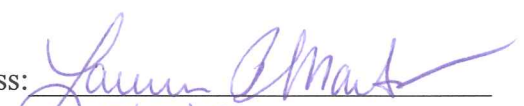
reflect this Contract and to assure reimbursement of the Authority's expenses, including its application for this Contract.

23. This Agreement may be executed in multiple counterparts all of which when taken together shall constitute a binding agreement among the parties hereto. For purposes of executing this Agreement, a document signed and transmitted electronically or by facsimile shall be treated as an original document. The signature of any party thereon shall be considered as an original signature, and the document transmitted shall be considered to have the same binding legal effect as an original signature on an original document. At the request of either party, any facsimile document or electronically transmitted document shall be re-executed by the parties in original form.

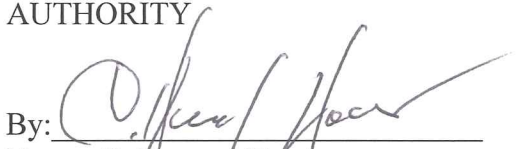
The Parties have executed this Agreement as of the dates set forth below.


2000 CEDAR, LLC

By:   
Name: Scott P. Gillespie  
Its: Managing Member for Limited Liability Company  
Date: 7-2-18


Witness:   
Date: 07/02/18


DELHI CHARTER TOWNSHIP  
BROWNFIELD REDEVELOPMENT  
AUTHORITY

By:   
Name: C. Howard Haas  
Its: Executive Director  
Date: July 2, 2018

Witness:   
Date: 7/2/18

TRITERRA, LLC

By:   
Name: David A. Van Haaren  
Its: Director | Economic Development  
Date: 6/28/18

Witness:   
Date: 6/28/18



**BROWNFIELD GRANT CONTRACT**  
BETWEEN THE  
MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY  
AND THE  
"DELHI CHARTER TOWNSHIP BROWNFIELD REDEVELOPMENT AUTHORITY"

This Grant Contract ("Contract") is made between the Michigan Department of Environmental Quality, Remediation and Redevelopment Division (hereafter "State"), and the Delhi Charter Township Brownfield Redevelopment Authority (hereafter "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 the funding sources identified in Appendix A. This Contract is subject to the terms and conditions specified herein.

Project Name: **Esker Square**  
Amount of Grant: **\$249,000**  
Start Date: **Date executed by DEQ**

Location Code: **6D68**  
Tracking Code: **2018-1329**  
End Date: **Two years after Start Date**

**GRANTEE CONTACT:**

Name/Title

Lori Underhill,  
Assistant Executive Director

Organization

Delhi Charter Township Brownfield Redevelopment  
Authority

Address

2074 Aurelius Road  
Holt, Michigan 48842

Telephone number

517-699-3866

E-mail address

Howard.Haas@delhitownship.com

Federal ID number

38-6019639

**STATE'S CONTACT:**

Name/Title

Janet Michaluk,  
Brownfield Coordinator

Division

Remediation and Redevelopment Division

Address

Constitution Hall, 1<sup>st</sup> Floor South  
525 West Allegan Street  
Lansing, Michigan 48933

Telephone number

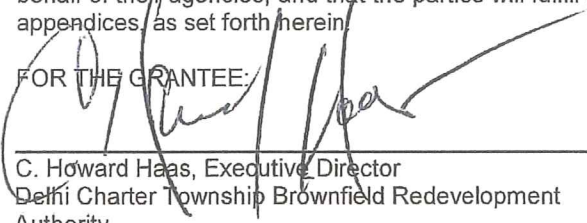
517-643-0314

E-mail address

michalukj@michigan.gov


The individuals signing below certify by their signatures that they are authorized to sign this Grant 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:

  
C. Howard Haas, Executive Director  
Delhi Charter Township Brownfield Redevelopment  
Authority

6-13-18  
Date

FOR THE STATE:

  
Susan Leeming, Director  
Remediation and Redevelopment Division  
Michigan Department of Environmental Quality

6-19-2018  
Grant Execution Date / Contract Start Date  
Contract End Date is two years after this date

## **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 20 percent of the budget line item shall be requested by the Grantee or the State in writing and implemented only upon approval 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 quarterly progress 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:

<b>Reporting Period</b>	<b>Due Date</b>
January 1 – March 31	April 30
April 1 – June 30	July 31
July 1 – September 30	Before October 15*
October 1 – December 31	January 31

\*Due to the State's year-end closing procedures, there will be an accelerated due date for the report covering July 1 – September 30. Advance notification regarding the due date for the quarter ending September 30 will be sent to the Grantee. If the Grantee is unable to submit a report in early October for the quarter ending September 30, an estimate of expenditures through September 30 must be submitted to allow the State to complete its accounting for that fiscal year.

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 provide a final project report in a format prescribed by the State. The Grantee shall submit the final 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) The Grantee must provide three (3) copies of all products and deliverables in accordance with Appendix A.

(D) All products shall acknowledge that the project was supported in whole or in part by the State, per the guidelines provided by the program.

(E) 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 applicable 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 applicable taxes and fees, if any, that arise from the Grantee's receipt or execution 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 submitted to the State under this Contract. The Grantee 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, and federal awarding agency, if applicable, retains a royalty-free, nonexclusive and irrevocable right to reproduce, publish, and use in whole or in part, and authorize others to do so, any copyrightable material or research data 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.

## **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. NON-DISCRIMINATION**

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, or any employee or agent of the Grantee acting within the scope of their employment or agency.

(B) 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.

#### **XIII. ANTI-LOBBYING**

If all or a portion of this Contract is funded with state funds, then 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 ten (10) 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.

(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 and paid. 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 SIGMA Vendor Self-Service website (<http://www.michigan.gov/sigmavss>).

(F) An amount equal to ten percent (10%) of the grant award 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 may honor requests for just and equitable compensation to the Grantee for all satisfactory and eligible work completed under this Contract up until 30 days after written notice, upon which time all outstanding reports and documents are due to the State and the State will no longer be liable to pay the grantee for any further charges to the grant.

## **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. 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 Licensing and Regulatory Affairs or its successor.
- e. During the 30-day written notice period, the State shall withhold payment for any findings under subparagraphs a through d, above and the Grantee will immediately cease charging to the grant and stop earning match for the project (if applicable).

(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. IRAN SANCTIONS ACT**

By signing this Contract the Grantee is certifying that it is not an Iran-linked business, and that its contractors are not Iran-linked businesses, as defined in MCL 129.312.

## **XXIII. ACCESS AGREEMENTS**

A voluntary access agreement or court-ordered access must be secured by the Grantee prior to performance of the scope of work described in Appendix A for any portion of the project area or property where grant activities will be undertaken and that is not owned by the Grantee. Evidence of access must be provided to the State at its request.

## **XXIV. GRANT ADMINISTRATION**

The use of a Grant Administrator to review work plans, reports, and other documents prepared by the Contractor(s), review invoices, write project status reports, and coordinate project activities and communications is eligible for reimbursement conditional upon the State's approval of a scope of work and budget prior to incurring grant administration costs. Grant administration costs will be limited to three percent (3%) [ten percent (10%) (for areawides only)] of the total grant amount.

## **XXV. INELIGIBLE EXPENSES**

Although the following costs may be related to the scope of work described in Appendix A, the following are ineligible for reimbursement under the grant:



Office equipment; software; insurance, except liability insurance required pursuant to this Contract; taxes, except sales taxes; replacement or purchase of equipment; drinking water supply replacement, defined as but is not limited to, providing bottled water, constructing a new well, and extending or constructing a water supply system ; operation and maintenance, defined as the activities necessary to provide for continued effectiveness and integrity of a response activity after construction of the response activity means or measures. The term includes activities such as groundwater removal and treatment; restoration of property or infrastructure, unless included in Appendix A; fees for attorneys or legal advice; grant recipient staff time for application submittal; costs incurred for environmental activities under a local Brownfield Redevelopment Authority Plan; costs incurred for activities outside a State-approved work plan; labor overtime; and training. Travel costs for either vehicle use or vehicle mileage will be reimbursed, but not both. Vehicle mileage will be reimbursed at a maximum of the federal rate allowed by the Internal Revenue Service at the time the costs are incurred. Fees, such as those incurred for state or local permits; underground storage tank registration; late fees; or other fees may be eligible at the State's discretion. Other expenses may be determined ineligible in the course of invoice reviews.

#### **XXVI. BIDS, CONTRACTORS**

(A) For contracts over \$20,000, the Grantee shall provide, or cause to be provided, the qualifications of the selected contractor(s) to the State. The State reserves the right to object to the selected contractor(s) or their qualifications. If the State has objections, it will inform the Grantee in writing within 30 days of receipt of the selected contractor's qualifications.

(B) For any contract over \$20,000, except professional services, the Grantee shall solicit, or cause to be solicited, bids from at least three qualified contractors. The Grantee shall provide to the State, copies of all bids received. If the contractor that submitted the lowest bid is not the contractor selected, the Grantee must submit written justification for the selection.

(C) Any contractor(s) retained for corrective action on regulated underground storage tanks shall be a qualified underground storage tank consultant that meets the requirements of Section 21325 of Part 213, Leaking Underground Storage Tanks of the NREPA.

(D) Any contractor(s) retained for asbestos abatement shall possess appropriate qualifications to perform asbestos abatement.

(E) Contractor markup on subcontractors and equipment is limited to a maximum of ten percent (10%) of the original cost, and subject to approval by the State.

#### **XXVII. WORK PLANS AND PROJECT IMPLEMENTATION**

(A) Prior to conducting any activities except property acquisition under the Contract, the Grantee or its contractor shall submit a detailed work plan to the State for its approval. Work plans must include a description of the proposed activities, a budget, and a schedule for conducting the activities under Appendix A. A supplementary work plan, budget, and schedule are required for each subsequent phase of work. The Grantee and its contractor shall not proceed with grant-funded activities until the State approves the work plan, budget, and schedule in writing. The State may approve, modify and approve, or require amendments to the work plan.

(B) The Grantee or its contractor shall implement the work plan upon the State's written approval and according to the schedules contained therein. Changes or additions to the work plan may be submitted in writing and are subject to approval by the State. Changes to work plans without prior approval from the State, or performance of activities that are not part of an approved work plan or an amendment to a work plan, are considered ineligible expenses and may result in the Grantee being responsible for payment of unapproved activities.

## **XXVIII. ECONOMIC DEVELOPMENT**

(A) The Grant Recipient acknowledges by its signature of this Contract that there have been no material changes in the economic development proposal, property ownership, or other conditions of the property or project since the date the grant funds were awarded.

(B) In the event the proposed development changes or is not implemented, the Grantee shall immediately notify the State in writing and shall secure a new development project for the property within six (6) months after such notification. The Grantee shall then notify the State in writing of the proposed development. The alternate development project is also subject to approval by the State.

## **XXIX. OTHER TERMS AND CONDITIONS**

(A) The State may withhold the grant until the State determines that the Grantee is able to proceed with the project scope described in Appendix A, pursuant to Part 196, Section 19612(3), of the NREPA.

(B) Following completion of the project, the State may conduct annual compliance inspections for two (2) years to determine whether the project is being maintained for the use specified in this Contract.

(C) The Grantee acknowledges, by signature of this Contract, that the State is not obligated to provide additional funding for this project. The Grantee shall assume responsibility for any additional environmental activity costs necessary to complete the project in excess of the approved Grant.

(D) If necessary to allow for completion of the project, the Grantee and State may mutually agree to extend the term of the contract. Contract extensions should be requested by the Grantee or the State in writing, prior to the contract end date. The term of the contract may be extended up to a maximum of four additional 1-year periods. This contract may only be extended by a signed agreement between both parties.

Project Details			
<b>Project name and address</b>	Esker Square 2000 Block of North Cedar Street Delhi Charter Township, Michigan 48842	<b>Grantee / Borrower</b>	Delhi Charter Township Brownfield Redevelopment Authority (DCTBRA)
<b>Tracking code</b>	2018-1329	<b>Location Code</b>	6D68
<b>Private investment</b>	\$13,000,000	<b>Jobs created</b>	40 full-time equivalent (FTE)
<b>Grant amount</b>	\$249,000	<b>Loan amount</b>	\$0
<b>Funding Sources</b>	Refined Petroleum Fund (RPF) Grant		

**PROJECT DESCRIPTION:** The DCTBRA has been awarded a grant for due care implementation to address soil and groundwater contamination, including transportation and disposal of contaminated soil and the installation of a gas vapor mitigation system (GVMS).

2000 Cedar, LLC, the owner/developer plans to construct two new 3-story mixed-use commercial/retail and residential buildings.

**ANTICIPATED SCOPE OF WORK / BUDGET:**

The scope of work includes:

- Due care activities, including but not limited to, transportation and disposal of contaminated soil, installation and monitoring of a gas vapor mitigation system, and associated oversight and project management

Eligible activities include:

Eligible Activity	Grant
1. Due Care	\$205,000
2. Third-Party Oversight	\$7,000
3. Grant Administration (up to 3 percent of grant amount)	\$7,000
4. Contingency (up to 15 percent of grant amount)	\$30,000
Total	<b>\$249,000</b>

In addition to the broad budget items listed above, grant funds may be used for work plan and budget development, bid solicitation, technical specifications, and other administrative tasks approved by the Department of Environmental Quality (DEQ) grant coordinator. Tasks not listed above must be approved prior to the performance of those tasks.

Prior to the start of any grant eligible work, a work plan must be submitted to the DEQ for review and approval. Work performed outside of an approved work plan may not be eligible for grant reimbursement. Work plan development will be paid for under the budget items listed above. A budget maximum of up to \$5,000 is approved for work plan development. If an individual work plan or multiple work plans collectively exceed the \$5,000 cap, specific approval must be received prior to the development of the work plan or work plans beyond a development cost of \$5,000 in order to be considered grant eligible.

**SCHEDULE:** Work will be initiated on approved projects within two weeks of State approval unless otherwise approved by the State. The project is anticipated to proceed on the following schedule:

Task	Schedule
1. Due Care	1 <sup>st</sup> and 2 <sup>nd</sup> quarter after start date
2. Third Party Oversight	1 <sup>st</sup> and 2 <sup>nd</sup> quarter after start date
3. Grant Administration	1 <sup>st</sup> and 2 <sup>nd</sup> quarter after start date
4. Contingency	1 <sup>st</sup> and 2 <sup>nd</sup> quarter after start date

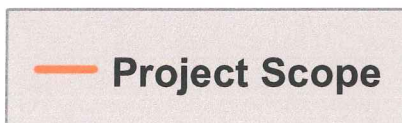




1 inch = 150 feet

0.055

Miles



Datum: NAD83  
Projection: Michigan GeoRef  
Photo Source: MIS WGS  
Date: 2015 Resolution: 3in

## Esker Square

CITY OF HOLT  
INGHAM COUNTY  
T3N-R2W SEC 14

### PROJECT SCOPE MAP

EQA  
Janet  
Michaluk  
BROWNFIELD  
REDEVELOPMENT  
UNIT



CREATED BY  
Meredith  
Maher  
BROWNFIELD  
REDEVELOPMENT  
UNIT

Remediation &  
Redevelopment  
Division

CREATION DATE  
April 2018

**FIGURE 1**

**LEGAL DESCRIPTION OF PROPERTY**

Real property located within the Charter Township of Delhi, Ingham County, Michigan, legally described as follows:

**Lot 14, 15, 16, 17, 18, 19 and 20, of Supervisor's Plat No. 6, Township of Delhi Charter, Ingham County, Michigan, according to the recorded Plat thereof, as recorded in Liber 11, Page(s) 34, Ingham County Records.**

**ALSO**

**Lot 66, of Arlington Park and a parcel of land lying Easterly of and adjacent to the South 120 feet of the Easterly line of Lot 20, of Supervisor's Plat No. 6, being a subdivision of the Southwest  $\frac{1}{4}$  of Section 14 and the Northwest  $\frac{1}{4}$  of Section 23, T3N, R2W, according to the recorded Plat thereof, as recorded in liber 11, Page(s) 34, Ingham County Records, said parcel of land being 50 feet as measured in the Northeasterly and Southwesterly direction and 120 feet as measured in the Northwesterly and Southwesterly direction and being a part of the former Lansing and Jackson Railway Company right of way, Township of Delhi Charter, Ingham County, Michigan, according to the recorded Plat thereof, as recorded in Liber 7, Page(s) 32, Ingham County Records.**

Parcel Identification Nos.

33-25-05-14-377-008  
33-25-05-14-377-007  
33-25-05-14-377-006  
33-25-05-14-377-005  
33-25-05-14-377-004  
33-25-05-14-377-019  
33-25-05-14-377-020  
33-25-05-14-377-023



**BROWNFIELD REDEVELOPMENT  
 GRANT / LOAN  
 APPENDIX A**

Project Details			
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<b>Grant amount</b>	\$249,000	<b>Loan amount</b>	\$0
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3. Grant / Loan Administration	1 <sup>st</sup> and 2 <sup>nd</sup> quarter after start date
4. Contingency	1 <sup>st</sup> and 2 <sup>nd</sup> quarter after start date





1 inch = 150 feet

0.055

Miles



**Project Scope**

Datum: NAD83  
Projection: Michigan GeoRef

Photo Source: MIS WGS  
Date: 2015 Resolution: 3in

## Esker Square

CITY OF HOLT  
INGHAM COUNTY  
T3N-R2W SEC 14

### PROJECT SCOPE MAP

EQA  
Janet  
Michaluk  
BROWNFIELD  
REDEVELOPMENT  
UNIT



CREATED BY  
Meredith  
Maher  
BROWNFIELD  
REDEVELOPMENT  
UNIT

Remediation &  
Redevelopment  
Division

CREATION DATE  
April 2018

**FIGURE 1**