

SPECIAL TRUNKLINE
NON-ACT-51
ADDED WORK

DA	
Control Section	GF19 82121
Job Number	204003CON
Contract	18-5527

THIS CONTRACT is made and entered into this date of _____, by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the DETROIT WATER AND SEWERAGE DEPARTMENT, a corporation owned by the City of Detroit, Michigan, a Michigan municipal corporation, hereinafter referred to as the "UTILITY"; for the purpose of fixing the rights and obligations of the parties in agreeing to construction improvements in conjunction with the DEPARTMENT'S construction on Highway M-5 (Grand River Avenue), within the corporate limits of the City of Detroit, Wayne County, Michigan.

WITNESSETH:

WHEREAS, the DEPARTMENT is planning hot mix asphalt milling and resurfacing, streetscape, two-way cycle track, traffic signal, signing, and pavement marking work along Highway M-5 (Grand River Avenue) from Highway M-39 (Southfield Freeway) to Berg Road; and

WHEREAS, the UTILITY has requested that the DEPARTMENT perform additional work for and on behalf of the UTILITY in connection with the Highway M-5 (Grand River Avenue) construction, which additional work is hereinafter referred to as the "PROJECT" and is located and described as follows:

Watermain replacement work along Highway M-5 (Grand River Avenue) from Berg Road southeasterly to Fenkell Avenue, including taking existing watermain out of service and removing existing 6-inch, 8-inch, 10-inch and 12-inch watermain and installing new 8-inch, 12-inch, and 16-inch watermain; together with necessary related work, located within the limits of the City of Detroit, Wayne County, Michigan; and

WHEREAS, the DEPARTMENT presently estimates the PROJECT COST as hereinafter defined in Section 1 to be: \$8,608,600; and

WHEREAS, the parties hereto have reached an understanding with each other regarding the performance of the PROJECT work and desire to set forth this understanding in the form of a written Contract.

NOW, THEREFORE, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, it is agreed:

1. The parties shall undertake and complete the construction of the PROJECT in accordance with this Contract. The term "PROJECT COST", as herein used, is hereby defined as the cost of the construction of the PROJECT including the costs of physical construction necessary for the completion of the PROJECT as determined by the DEPARTMENT; and construction engineering (CE), and any and all other expenses in connection with any of the above.

2. The cost of alteration, reconstruction and relocation, including plans thereof, of certain publicly owned facilities and utilities which may be required for the construction of the PROJECT, shall be included in the PROJECT COST; provided, however, that any part of such cost determined by the DEPARTMENT, prior to the commencement of the work, to constitute a betterment to such facility or utility, shall be borne wholly by the owner thereof.

3. The UTILITY will approve the design of the PROJECT and shall accept full responsibility for the design with respect to the facilities functioning as part of the UTILITY'S facilities. Any approvals by the DEPARTMENT are for its own purposes and are not to nor do they relieve the UTILITY of liability for any claims, causes of action or judgments arising out of the design of the facilities.

4. The DEPARTMENT will administer all phases of the PROJECT and will cause to be performed all the PROJECT work.

Any items of PROJECT COST incurred by the DEPARTMENT may be charged to the PROJECT.

5. The PROJECT COST shall be charged to the UTILITY 100 percent and paid in the manner and at the times hereinafter set forth. Such cost is estimated to be as follows:

PROJECT COST - \$8,608,600

The CE costs will be apportioned in the same ratio as the actual direct construction costs.

It is understood that any cost overruns or time extensions required due to conflicts resulting from the PROJECT shall be the responsibility of the UTILITY and charged 100 percent to the UTILITY. The DEPARTMENT will make the determination on whether the cost overruns or time extensions are justified and will give approval on the amount of costs or time extensions. The DEPARTMENT will provide notice to the UTILITY of any cost overruns or time extensions prior to the approval of such.

6. The DEPARTMENT shall maintain and keep accurate records and accounts relative to the cost of the PROJECT. The DEPARTMENT may submit progress billings to the UTILITY on a monthly basis for the UTILITY'S share of the cost of work performed to date, less all payments previously made by the UTILITY not including payments made for a working capital deposit. No monthly billings of a lesser amount than \$1,000 shall be made unless it is a final or end of fiscal year billing. All billings will be labeled either "Progress Bill Number

_____", or "Final Billing". Payment is due within 30 days of receipt of invoice. Upon completion of the PROJECT, payment of all items of PROJECT COST and receipt of all Federal Aid, the DEPARTMENT shall make a final billing and accounting to the UTILITY.

The UTILITY will deposit with the DEPARTMENT the following amount which will be used by the DEPARTMENT as working capital and applied toward the end of the project for the contracted work and cost incurred by the DEPARTMENT in connection with the PROJECT:

DEPOSIT - \$602,600

The total deposit will be billed to the UTILITY by the DEPARTMENT and shall be paid by the UTILITY within 30 days after receipt of invoice.

7. Pursuant to the authority granted by law, the UTILITY hereby irrevocably pledges a sufficient amount of funds received by it from the State Revolving Fund to meet its obligations as specified herein. If the UTILITY shall fail to make any of its required payments when due, as specified herein, the DEPARTMENT shall immediately notify the UTILITY of the fact of such default and the amount thereof, and, if such default is not cured by payment within ten (10) days, the DEPARTMENT is then authorized and directed to withhold from the first of such monies thereafter allocated by law to the UTILITY from the State Revolving Fund sufficient monies to remove the default, and to credit the UTILITY with payment thereof, and to notify the UTILITY in writing of such fact.

8. Upon completion of construction, the UTILITY shall accept the facilities constructed as built to specification within the construction contract documents. It is understood the UTILITY shall own the facilities and shall operate and maintain the facilities in accordance with applicable law.

9. Any and all approvals of, reviews of, and recommendations regarding contracts, agreements, permits, plans, specifications, or documents, of any nature, or any inspections of work by the DEPARTMENT pursuant to the terms of this Contract are done to assist the UTILITY. Such approvals, reviews, inspections and recommendations by the DEPARTMENT shall not relieve the UTILITY of its ultimate control and shall not be construed as a warranty of their propriety or that the DEPARTMENT is assuming any liability, control or jurisdiction.

When providing approvals, reviews and recommendations under this Contract, the DEPARTMENT is performing a governmental function, as that term is defined in MCL 691.1401 et seq., as amended, which is incidental to the completion of the PROJECT.

10. In connection with the performance of PROJECT work under this Contract the parties hereto (hereinafter in Appendix "A" referred to as the "contractor") agree to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix A, attached hereto and made a part hereof. The parties further covenant that they will comply with the Civil Rights Acts of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C.

11. This Contract shall become binding on the parties hereto and of full force and effect upon the signing thereof by the duly authorized officials for the UTILITY and for the DEPARTMENT; upon the adoption of a resolution approving said Contract and authorizing the signatures thereto of the respective officials of the UTILITY, a certified copy of which resolution shall be attached to this Contract.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed the day and year first above written.

DETROIT WATER AND
SEWERAGE DEPARTMENT

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By _____
Title:

By _____
Department Director MDOT

By _____
Title:



APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Public Act 453 of 1976 (Elliott-Larsen Civil Rights Act), the contractor shall not discriminate against an employee or applicant for employment with respect to hire, tenure, treatment, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, or marital status. A breach of this covenant will be regarded as a material breach of this contract. Further, in accordance with Public Act 220 of 1976 (Persons with Disabilities Civil Rights Act), as amended by Public Act 478 of 1980, the contractor shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants will be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status, or any disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment; treatment; upgrading; demotion or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or its collective bargaining representative shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising such labor union or workers' representative of the contractor's commitments under this Appendix.
6. The contractor shall comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission that may be in effect prior to the taking of bids for any individual state project.

7. The contractor shall furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor, as well as the contractor itself, and said contractor shall permit access to the contractor's books, records, and accounts by the Michigan Civil Rights Commission and/or its agent for the purposes of investigation to ascertain compliance under this contract and relevant rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Michigan Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this contract, the Michigan Civil Rights Commission may, as a part of its order based upon such findings, certify said findings to the State Administrative Board of the State of Michigan, which State Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, including the governing boards of institutions of higher education, until the contractor complies with said order of the Michigan Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Michigan Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Michigan Civil Rights Commission to participate in such proceedings.
9. The contractor shall include or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Michigan Civil Rights Commission; all subcontracts and purchase orders will also state that said provisions will be binding upon each subcontractor or supplier.

Revised June 2011