

AGENDA REPORT

To: Mayor Pat Humphrey and the Clare City Commission
From: Ken Hibl, City Manager
Date: June 2, 2010
Regarding: Engineering Services Agreement for Downtown (Beech & Fourth)
Streetscape Project – Gourdie Fraser

For the Agenda of June 7, 2010

Background. The City submitted a Notice of Intent (NOI) to the Michigan Economic Development Corporation (MEDC) for a streetscape grant project (Beech & Fourth Street) in the amount of \$137,200 (\$50K local match; \$87.2K grant funds). The City's NOI was accepted and approved, and the City was invited to submit a full grant application for the proposed project. The grant application was submitted, and we have been informally advised that the grant has been approved and sent to MEDC's legal department for preparation of a grant agreement contract, which the City should receive within the next few weeks. Concurrent with the submittal of the grant application, the City submitted a letter request (*copy att'd*) to incur local engineering costs to allow the commencement of engineering design and bid specification and bid solicitation documents; the City's request has been approved (*see copy of att'd MEDC letter*). Based on this approval, we have requested a proposal (*copy att'd*) for project engineering services from Gourdie-Fraser, our engineering firm of record and the firm that prepared preliminary engineering project drawings for no cost to support our grant NOI and grant application. The City Commission is asked to approve the contractual services agreement.

Issues & Questions Specified. Should the City Commission approve the proposed contractual agreement for services with Gourdie-Fraser?

Alternatives.

1. Approve the proposed services agreement.
2. Direct the solicitation of additional proposals.
3. Do not approve the proposed services agreement.
4. Defer the matter for further consideration and/or deliberation at a subsequent meeting.

Financial Impact. The total cost of the engineering services is \$17.9K (\$10K for design, bidding services, topographic survey, etc.; \$7.9K for construction engineering services). These funds are budgeted and will be provided by the Clare DDA local match for this project.

Recommendation. I recommend that the City Commission approve the proposed services agreement with Gourdie-Fraser by adoption of Resolution 2010-059.

Attachments.

1. Letter request to MEDC.
2. MEDC Approval Letter.
3. GFA Services Agreement Proposal.
4. Resolution 2010-059.



CITY OF CLARE

202 West Fifth Street • Clare, Michigan 48617-1490

989/386-7541 • Fax 989/386-4508

www.cityofclare.org

May 24, 2010

CITY HALL

Ph 989/386-7541

Fx 989/386-4508

www.cityofclare.org

Michigan Economic Development Corporation
Community Development Block Grant Program

Attn: Ms. Lisa Green

300 North Washington Square, 3rd Floor
Lansing, Michigan 48913

DEPARTMENT OF PUBLIC WORKS

Ph 989/386-2182

Fx 989/386-3445

RE: CDBG Project No.: MSC 209157-ICE (Beech & 4th Street Streetscape)

Dear Ms. *Green*,

W/WWT PLANT

Ph 989/386-2321

Fx 989/386-2387

Please accept this letter as the City of Clare's formal request to incur local engineering costs associated with the referenced CDBG streetscape project. A revised budget reflecting that local matching funds will be utilized to pay for all engineering costs associated with the project is enclosed.

POLICE DEPT.

Non-emergency

Ph 989/386-2121

Fx 989/386-0440

We anticipate that denial of the request will cause approximately one month delay in our ability to commence project construction once the grant application is approved.

FIRE DEPT. NON-EMERGENCY

Ph 989/386-2151

Fx 989/386-3020

The City fully understands that no other project costs can be incurred prior to completion of the required environmental review of our project and the effective date of the grant agreement.

Best Wishes,

PARKS & RECREATION

Ph 989/386-7541

Fx 989/386-4508

Ken Hibi
Ken Hibi
City Manager

Enclosure

AIRPORT

Ph 989/386-0445

Fx 989/386-4508

MAIN STREET MANAGER

Ph 989/386-9190

Fx 989/386-9190

PROJECT BUDGET
MICHIGAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

MICHIGAN ECONOMIC DEVELOPMENT CORPORATION		2. Project Title: Beech & Fourth Street Streetscape Project	
1. Local Government: City of Clare	4. Project Funding Sources (Identify all other funding sources)		
3. Project Cost Elements	CDBG	Local	TOTAL
Activities			
Design Engineering	\$0	\$10,000	\$10,000
Construction Engineering	\$0	\$8,000	\$8,000
Project Construction Costs	\$80,436	\$28,064	\$108,400
Contingency	\$6,864	\$3,936	\$10,800
TOTAL	\$87,200	\$50,000	\$137,200



MICHIGAN STRATEGIC FUND

May 25, 2010

300 N. WASHINGTON SQ.
LANSING, MI 48913

Mr. Ken Hibel, Manager
City of Clare
202 West Fifth Street
Clare, Michigan 48617-1490

MSF BOARD

D. GREGORY MAIN
President and Chair
Michigan Economic
Development Corporation

LINDA EWING
United Auto Workers

JAMES HERBERT
Neogen Corporation

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M Group, LLC

JAMES G. PETCOFF
JPFS, LLC

STANLEY PRUSS
Michigan Department
of Energy, Labor &
Economic Growth

RICHARD E. RASSEL
Butzel Long

CHARLES ROTHSTEIN
Beringee LLC

RE: MSC 209157-ICE Proposed Community Development Block Grant (CDBG)

Dear Ken:

I am writing in response to your recent letter requesting permission to incur local costs for engineering expenses in the amount of \$18,000 for the city's proposed CDBG Beech & Fourth Street Streetscape Project. Per your May 24, 2010 letter the budget is being revised to reflect all engineering expenses as a local expense.

I am pleased to inform you that your request has been approved. The city may incur the costs specified above, which will be counted toward the city's match requirement. This letter is intended only to grant permission to incur the costs mentioned above, and is not to be construed as permission to conduct any other project activities.

All expenses performed prior to final approval of a grant are solely at the risk of the City of Clare. Approval of this request does not imply approval of your proposed CDBG application, which will be reviewed according to the published program requirements.

Should you have any questions or concerns, please contact me at 517.241.0060.

Sincerely,

Lisa Green
Project Manager

cc: CDBG File

June 1, 2010

PH 231.946.5874

FAX 231.946.3703

www.gourdiefraser.com

**Mr. Ken Hibl, City Manager
City of Clare
202 West Fifth Street
Clare, MI 48617-149**

**RE: Streetscape Project
Fourth & Beech Streets**

Dear Ken,

In accordance with your request, we are please to provide this professional services agreement to assist you with your project as outlined in the attached description of services.

Thank you for giving our response your careful attention. We look forward to the opportunity to be of service to you.

Sincerely,
Gourdie-Fraser, Inc.



**Craig Goodrich
Project Manager**

CG/vs

Enclosures

**AGREEMENT BETWEEN CLIENT/OWNER AND CONSULTANT
FOR PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of _____ ("Effective Date")

between The City of Clare ("Client/Owner") and Gourdie-Fraser, Inc. ("Consultant").

Consultant agrees to provide the services described herein to the Client/Owner for Fourth and Beech Street streetscape design, construction staking, testing and observation ("Project").

BASIC SERVICES:

Consultant will provide, or cause to be provided, the services set forth in the attached Exhibit A and any subsequent services set forth in Client/Owner approved Authorization for Additional Services. Client/Owner shall pay the Consultant for such services in accordance with this Agreement.

CLIENT/OWNER'S RESPONSIBILITY:

Client/Owner shall provide the Consultant with all available criteria and information regarding the Client/Owner's requirements for the Project including design objectives and performance requirements. The Client/Owner shall furnish copies of any documentation standards, if any, along with the information shown in Exhibit A.

Client/Owner shall provide for safe access to the Project site and make provisions for access to public and private property as required for the Consultant to perform the stated services.

Client/Owner shall provide examination of information from the Consultant and render timely decisions pertaining thereto.

TIME FOR RENDERING SERVICES:

This Agreement shall remain in effect until terminated as provided herein.

The time for performing services or providing deliverables will be as stated in Exhibit A or as adjusted by subsequent Authorizations. For the purposes of this Agreement the term "day" means a calendar day of 24 hours.

The time for a Consultant's performance will be extended to the extent performance was delayed by causes beyond the control of the Consultant.

SUSPENSION:

If the Consultant's services are delayed or suspended by the Client/Owner for more than 90 days, through no fault of the Consultant, the Consultant shall be entitled to adjustments in rates or amounts of compensation to reflect incremental costs incurred due to the delay.

PAYMENTS TO CONSULTANT:

Consultant shall prepare, or cause to be prepared, invoices for the Consultant's services in conjunction with the Project. Unless otherwise agreed to, invoices will be prepared according to the Consultant's standard format at least monthly and/or at the end of the Project. Invoices will include fees for reimbursable expenses to be invoiced at a rate of cost plus fifteen percent.

Invoices are due and payable upon receipt. If Client/Owner fails to make payment within 15 days of the invoice date, the amount due to the Consultant will increase 1½ % per month (18% per annum) or the maximum rate allowed by law.

In the event of disputed or contested invoices only the portion being contested shall be withheld from payment; the undisputed portion shall be paid.

In the event of termination, the Consultant shall be paid for all authorized services performed or furnished and all reimbursable expenses incurred up to the effective date of termination.

In the event of legislative action that imposes taxes, fees or costs on the Consultant, the Client/Owner shall be invoiced those taxes, fees or costs in addition to the Consultant's fees and reimbursables.

STANDARD OF PERFORMANCE:

The standard of care for all professional Consultant and related services performed or furnished by the Consultant under this Agreement will be the care and skill ordinarily used by members of the Consultant's profession practicing under similar circumstances at the same time and in the same locality. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with Consultant's services.

Consultant shall serve as Client/Owner's prime professional under this Agreement. Consultant may employ such sub-consultants as Consultant deems necessary to assist in the performance of the services stated herein. Consultant shall not be required to employ any sub-consultant unacceptable to Consultant.

During the Construction Phase of Project, the Consultant shall not supervise, direct, or have control over a Contractor's work. The Consultant shall not have authority over the means, methods, techniques, sequences, or procedures of construction selected by the Contractor. The Consultant shall not have authority over the safety precautions and programs of a Contractor nor for any failure of a Contractor to comply with Laws and Regulations applicable to a Contractor's furnishing and performing work associated with Project. Consultant shall not guarantee the performance of any Contractor with regard to the Contract Documents.

It is understood that if Consultant is not under authorization for supplying Construction Phase services that the Client/Owner assumes all responsibility for interpretations of the Contract Documents and waives any claims against the Consultant connected thereto.

USE OF DOCUMENTS:

All Documents are instruments of service. Consultant shall retain an ownership and property interest therein (including right of reuse at the discretion of the Consultant) whether or not the Project is completed.

Digital project Documents can be provided to the Client/Owner in .pdf or .dwg formats using the Consultants current software. Release of any digital Documents requires the Client/Owner to accept the terms and conditions stated in the Consultants "Digital Information Release Agreement".

Client/Owner may make and retain copies of Documents for information and reference in connection the Project. Such Documents are not be reused by Client/Owner or others on extensions of the Project for which they were prepared or on any other project. Any such reuse or modification, without written verification or adaptation by Consultant will be at the Client/Owner's sole risk and without liability or legal exposure to Consultant or Consultant's sub-consultants.

TERMINATION:

Either party may terminate this Agreement upon 30 days notice of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. The Agreement will remain in affect if the party receiving such notice begins to correct its failure within seven days of receiving such notice and proceeds diligently to cure such failure within no more than sixty days.

The Client/Owner may terminate this Agreement for convenience effective upon the receipt of such notice by Consultant.

CONTROLLING LAW:

This Agreement is to be governed by the law of the State of Michigan.

SUCCESSORS, ASSIGNS, AND BENEFICIARIES:

Client/Owner and Consultant each is hereby bound and the partners, successors, executors, administrators, and legal representatives of each are hereby bound to this Agreement.

Neither the Client/Owner nor Consultant may assign, sublet, or transfer any rights under or interest in this Agreement without written consent of the other unless such assignment, subletting or transfer is mandated or restricted by law.

DISPUTE RESOLUTION:

Client/Owner and Consultant agree to negotiate all disputes between them in good faith for a period not to exceed 30 days from the date of notice.

If the Client/Owner and Consultant are unable to resolve a dispute through the above stated process, the parties agree that all disputes between them arising out of or relating to this Agreement or the Project shall be submitted to non-binding mediation unless the parties mutually agree otherwise.

ALLOCATION OF RISK:

To the fullest extent permitted by law, Client/Owner and Consultant (1) waive against each other, and the other's employees, offices, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Consultant's total liability to Client/Owner under this Agreement shall be limited to the amount of the Consultant's fee. Consultant's liability shall be limited only to those damages resulting directly from Gourdie-Fraser, Inc.'s negligence.

The parties acknowledge that Consultant's scope of services does not include any services related to hazardous environmental conditions. If such conditions are encountered the Consultant may, without liability, suspend services.

APPLICABILITY OF CONTINUING AGREEMENT:

The terms and conditions set forth in this Agreement apply to each future authorization for services unless specifically modified. In the event of conflict between language herein and future authorization language, the authorization language shall take precedence for that authorization. Modifications to this Agreement shall be made in writing.

Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding. Such stricken provisions shall be reformed to replace the stricken provision with one that is enforceable and is as close as possible to expressing the intention of the original.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

EXHIBITS INCLUDED:

- Exhibit A, Basic Consultant's Services consisting of 3 pages.
- Exhibit B, Schedule of the Duties, Responsibilities and Limitations of Authority of the Resident Project Representative, consisting of 3 pages.
- All other required Exhibits consisting of a total of _____ pages.

Date:

Date:

Client/Owner: City of Clare
Signature:

Gourdie-Fraser, Inc.
Signature:

By: _____
Title:

By: _____
Title:

Signature: _____
By: _____
Title:

Address for giving notices:
City of Clare
202 West Fifth Street
Clare, MI 48617-149
Phone: 989-386-7541
Fax: 989-386-4508
Email: khibl@cityofclare.org

Address for giving notices:
Gourdie-Fraser, Inc.
123 West Front Street
Traverse City, MI 49684
Phone: 231-946-5874
Fax: 231-946-3703
Email: @gourdiefraser.com

EXHIBIT A

Further Description of Basic Services and Related Matters

This Exhibit outlines the general scope of professional services to be provided by the Consultant. These services will be provided in accordance with this Agreement between the parties, as set forth in Agreement Between Client/Owner and Consultant for Professional Services. This exhibit is made part of and incorporated by reference into Agreement Between Client/Owner and Consultant for Professional Services.

1) DESCRIPTION OF BASIC SERVICES OF ENGINEER:

Beech Street

This section would include approximately 540 LF streetscape design from Fourth Street to Fifth Street. Beech Street surface would be maintained in its current state with the centerline profile dictating the curb and sidewalk profile. The streetscape in this stretch would involve some new curb and gutter, parking lot realignment, irrigation system (Park area), fire hydrant relocation, concrete sidewalks within Park, brick paving bands, trees and grates, benches/trash containers, storm sewer extension, lighting and signing similar to the Fifth Street design, which is established there already. No utility work is expected along Beech Street except lighting, and some minor manhole & valve box adjustment.

Fourth Street

This section would include approximately 220 LF of streetscape design along the north and south sides of Fourth Street from Beech Street to the existing streetscape at the east. The intention at this time is to save the existing curb lines on Fourth Street and match into the recently constructed curb line and sidewalk. The Trail crossing would be relocated to just east of the City's Parking lot west entrance. Utility work would include lighting and manhole & valve box adjustment to facilitate grading. Street surfacing would be maintained in its current state.

Topographic Survey

The new assisted living facility has an existing topographic base survey that can be utilized. We would obtain additional spot elevations along Beech Street and Fourth Street as well as as-builts on some recent improvements. We would also extend the topographic survey east to the existing streetscape on Fourth Street and Park area.

Preliminary Design

As discussed, it was recommended to hold a preliminary design meeting with the City of Clare and the new building users on the corner of Fourth and Beech on this project to collect comments. The purpose of the meeting would be to obtain input on the corridors in this area in regards to pedestrian movement, building accesses, street parking configurations, street surfacing options, and building access.

For the purpose of this proposal we will assume that the preliminary design would include that meeting. The result of said meeting will yield consensus of one option after which we will prepare a preliminary plan view with cost estimate of the proposed improvements for review and concurrence with the City.

Final Design

We will utilize the approved preliminary layout to prepare final construction documents for the streetscape work. The documents will be separated into one division of work. Final construction documents will include plans, profiles, details, specifications, and contract documents. A final construction cost estimate would be prepared for the project.

It is assumed that the streetscape project will be bid as one construction package.

Bidding Services

We will provide 10 sets of plans and specifications for contractors and assist the owner in advertising for bids in local publications. We will address all questions from contractors during the bid period and attend the bid opening for the project. We will review bids and recommend award to the owner and then prepare contracts for approval by the board. The contract will be awarded to one contractor for the entire streetscape project. Contract will be prepared in accordance with MEDC CDBG requirements.

Construction Services

Construction services would include construction staking, materials testing, periodic inspection, observation and contract administration of the streetscape project. We have included an estimated fee for this work at this time. A more detailed estimate can be prepared for this portion of the project once the final design is completed and the contractor identified for the project.

Schedule

We can begin the project immediately upon authorization to proceed. Based on current discussions we would project the following design and construction schedule at this time.

Authorization to Proceed with Design	June 7, 2010
Topographic Survey Complete	June 8, 2010
Preliminary Design Complete	June 15, 2010
Final Design Complete	June 30, 2010
Advertise for Bids	July 1, 2010
Receive Bids	August 1, 2010
*Begin Construction (earliest)	August 15, 2010
*Complete Construction	October 30, 2010

*May vary due to on-site building construction schedule.

2) PERIOD OF SERVICE: See Above

3) FEE FOR SERVICES:

Design Fee

Design Through Bidding

Topographic Survey	\$1,200.00
Preliminary Design	\$3,200.00
Final Design	\$4,600.00
Bidding Services	<u>\$1,000.00</u>
	\$10,000.00

Construction Services

Construction Staking	\$2,400.00
Materials Testing	\$1,500.00
Administration & Observation	<u>\$4,000.00</u>
	\$7,900.00

5) **ADDITIONAL INFORMATION**

The following items are considered reimbursable expenses:

Mileage Photocopies Blueprints Mylars/Vellums Travel Expenses

6) **CLARIFICATIONS**

- A. Electrical lighting layout will be designed and included in plan set. Owner will provide existing circuitry drawings for existing streetscape for designers use.
- B. Owner will obtain electronic files from new building project for use in developing topographic mapping.

7) **SUPPLEMENTAL SERVICES**

The following items are assumed to be supplied by the owner or may be required as an additional service.

- A. Permit Fees
- B. Advertisement of all publications for bidding.
- C. Traffic or pedestrian counts or studies.
- D. Electric lighting circuitry drawings for existing streetscape.
- E. Site Plan drawing with AutoCAD files for new building.

8) **MEETINGS**

This proposal is based on attendance at the following meetings:

- City Commission Board Meeting - 1
- Design Meeting with City Staff - 2

RESOLUTION 2010-059

A RESOLUTION OF THE CLARE CITY COMMISSION APPROVING A SERVICES AGREEMENT WITH GOURDIE-FRASER ENGINEERING.

WHEREAS, the City has submitted a grant application to the Michigan Economic Development Corporation (MEDC) to extend the streetscape along West Fourth Street and Beech Street in downtown Clare; and

WHEREAS, the City concurrently requested authorization from MEDC to incur engineering costs for said streetscape project using local funds, said funds being the local match provided by the Clare Downtown Development Authority, to expedite the process for project design and bid solicitation; and

WHEREAS, MEDC approved said request; and

WHEREAS, the City solicited an engineering proposal from Gourdie-Fraser, its engineer of record; and

WHEREAS, Gourdie-Fraser has provided the City with a services agreement proposal, the cost of said proposal as outlined in the grant application and considered by the City to be fair and equitable.

NOW THEREFORE BE IT RESOLVED THAT, the Clare City Commission hereby approves a services agreement with Gourdie-Fraser to provide all engineering services associated with the Beech Street and West Fourth Street Streetscape Project, the costs for said services not to exceed \$17,900.

BE IT FURTHER RESOLVED THAT the Clare City Commission hereby authorizes its City Manager to execute any and all documents related to said engineering services agreement with Gourdie-Fraser.

ALL RESOLUTIONS AND PARTS OF RESOLUTIONS INSOFAR AS THEY CONFLICT WITH THE PROVISIONS OF THIS RESOLUTION BE AND THE SAME ARE HEREBY RESCINDED.

The Resolution was introduced by Commissioner _____ supported by Commissioner _____. The Resolution declared adopted by the following roll call vote:

YEAS:

NAYS:

ABSENT:

Resolution approved for adoption on this 7th day of June 2010.

Diane Schmidt, City Clerk