

CONTRACT ILD-23-002

Between

THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

And

City of Arkansas City (Baker/Welch)

SUBJECT: Corrective action at Illegal Dump Site #ILD-23-002

DIVISION: Bureau of Waste Management

CONTRACT

PERIOD: Upon signature of the Secretary through February 28, 2023

AMOUNT: Estimated \$10,000.00 not to exceed \$10,000.00

This agreement between the Kansas Department of Health and Environment (hereinafter KDHE) and the City of Arkansas City takes effect upon signature of the Secretary of the Kansas Department of Health and Environment.

The relevant property with an address as follows: GOOCH'S ADD, S36, T34, R03, ACRES 11.22, W460 OF OUTLOT A & PT OUTLOT A BEG W132 FROM NE COR, W160, S63 0, E160, N630 TO POB SECTION 36 TOWNSHIP 34 RANGE 03 commonly known as 425 W. Quincy Ave., Arkansas City, KS 67005, Cowley County, Kansas, is an illegal solid waste dumping area pursuant to K.S.A. 65-3415(a). The City of Arkansas City has agreed to administer the contract.

K.S.A. 65-3415a(c)(12) authorizes the secretary of KDHE to pay for seventy-five percent (75%) up to a maximum of ten thousand dollars (\$10,000) of the costs of removal and disposal or stabilization of solid waste from the site of illegal dumping activity, if the city or county of jurisdiction consents.

K.S.A. 65-3415a(d) requires that the person(s) responsible for the illegal solid waste dumping activity at the subject site, whose failure to comply with the solid waste act, rules and regulations or permit conditions resulted in the determination that expenditures from the solid waste fund are necessary, are responsible for repayment of those funds. The secretary shall, in his discretion, take the appropriate action to recover those funds.

The secretary has determined that the above site is an illegal solid waste dumping site which requires authorized corrective action, and also that the person(s)

responsible for the illegal dumping activity is/are either unknown, unable or unwilling to pay for the cost of corrective action.

The City of Arkansas City wishes to enter into an agreement to perform corrective action at the above illegal solid waste dumping site.

The secretary has determined that it is most cost effective for the City of Arkansas City to perform or contract for performance of the tasks necessary to take correction action at the site.

In consideration of the foregoing and the representations and obligations undertaken herein and intending to be legally bound, the parties hereto agree as follows:

I. The KDHE shall:

- (1) Provide reimbursement to the City of Arkansas City for 75% of their actual cost of corrective action not to exceed \$10,000.
- (2) Agree that the City of Arkansas City may utilize the labor cost of its employees and cost of use of appropriate equipment in the calculation of its total cost of corrective action, subject to review and approval by KDHE.
- (3) Advance 25% of \$10,000.00 or \$2,500.00 of the estimated contract amount upon execution of the contract if requested.
- (4) Reimburse the remainder of the actual cost contract amount upon completion of the project as verified by receipt of Certified Expenditure Affidavits supported by evidence of expenditure, if KDHE approves the evidence of expenditure as appropriate. No reimbursements will be processed until the advanced contract amount is expended.
- (5) Review all requests and contracts submitted by the City of Arkansas City for approval by KDHE within thirty days of receipt by KDHE.
- (6) Provide technical assistance to the City of Arkansas City for project execution and administration.

II. The City of Arkansas City:

- (1) Shall incur 25% of the total cost of the clean up, either through the direct payment of expenses or supplying a minimum of in-kind contributions through labor, equipment or landfill space.

- (2) Shall submit a work plan to KDHE for approval prior to initial distribution of funds.
- (3) Shall submit Certified Expenditure Affidavits and a final affidavit supported by evidence of expenditures upon completion of the project and a final affidavit. The final affidavit shall be received by KDHE no later than 30 days after completion of the project. Complete, accurate documentation and current accounting of all funds received and expended shall be maintained to provide an audit trail to source documentation.
- (4) Agrees that no capital equipment will be purchased with the funds provided by KDHE. No matching funds will be reimbursed to the City of Arkansas City for the purchase of any capital equipment.
- (5) Submit all contracts over \$500 for approval by KDHE. KDHE recommends that the City of Arkansas City use competitive bid procedures for purchases over \$500, however, the City of Arkansas City may follow the same policies and procedures utilized for procurements obtained in the normal course of business.
- (6) Afford access, upon written request, to the secretary of KDHE or the secretary's authorized representative, or Kansas Legislative Post Audit to any documents and other records necessary to certify compliance with Kansas statutes, regulations, and appropriation requirements.
- (7) Complete the project as specified in the approved work plan.
- (8) Submit a final report to KDHE detailing the work accomplished in implementing the work plan.
- (9) Obtain all necessary site access agreements if not already obtained. Documentation of any such agreements shall be submitted to KDHE with the final report or upon request of KDHE.
- (10) Provide additional funds or resources, over the contract amount, as necessary, for completion of the project. The City of Arkansas City agrees not to seek any reimbursement from the property owner or other parties for any expenses not covered under this agreement. Any reimbursement sought under this agreement will be the sole responsibility of KDHE.
- (11) The City of Arkansas City shall submit to KDHE a copy of the resolution adopting this agreement. Upon submission, the resolution shall be incorporated into this agreement as Exhibit A.

III. The parties mutually agree that:

- (1) Failure to submit an acceptable work plan shall render this contract void.
- (2) The provisions found in Contractual Provisions Attachment (Form DA-146a), which is attached hereto and executed by the parties to the agreement, are hereby incorporated into this contract and are made a part hereof.
- (3) This agreement constitutes the whole agreement between the parties, and it is mutually understood and agreed that no alternative or variation to the terms of this agreement shall be valid unless amendments hereto are made in writing and agreed to by both parties.
- (4) This contract shall terminate upon the City of Arkansas City receipt of written notice from KDHE that the City of Arkansas City has demonstrated that the items set forth in the work plan were satisfactorily completed.
- (5) Nothing in this agreement shall be considered an admission of any fact or an acknowledgment of any liability; and, nothing herein shall be binding or have any effect on the position of the parties on any other agreements which may be negotiated between them.
- (6) KDHE and the City of Arkansas City will not be liable for any acts or omissions of their respective employees, agents, assigns, contractors, or persons acting on behalf of KDHE or City of Arkansas City in carrying out any activities pursuant to the terms of this agreement, beyond that liability granted by the Kansas Tort Claims Act, K.S.A. 75-6101 *et seq.*
- (7) Failure to obtain necessary site access agreements, per paragraph II. (9), and/or to submit documentation of access agreements to KDHE upon KDHE's request, shall result in KDHE denying reimbursement of outstanding funds to the City of Arkansas City.
- (8) KDHE shall not be responsible for any payments for site access or crop damage.
- (9) By signing this agreement, the person below warrants that he or she has the authority to sign this document and to bind the parties to its terms.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures on the dates indicated below.

BY: \_\_\_\_\_  
Kanyon Gingher  
Mayor  
City of Arkansas City

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Janet Stanek, Secretary  
Kansas Department of Health  
And Environment

\_\_\_\_\_  
Date: