



**BRIAN CUMBO**

ATTORNEY AT LAW

86 W. Main St., Suite 100  
P.O. Box 1844  
Inez, KY 41224  
(606) 298-0428  
FAX: (606) 298-0316  
cumbolaw@cumbolaw.com

ADMITTED IN KY AND WV

RECEIVED

AUG 23 2018

PUBLIC SERVICE  
COMMISSION

August 17, 2018

Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602

RE: Martin County Water District  
PSC Case No. 2018-00017

To Whom It May Concern:

Enclosed please find an original and six (6) copies of Martin Water District's Response to Commission Staff's Post Hearing Request for Information and Response to Martin County Concerned Citizen's Post Hearing Request for Information in the above matter.

Thank you for your attention to this matter.

Very truly yours,

BRIAN CUMBO

BC/ld  
Enclosure

RECEIVED

AUG 23 2018

PUBLIC SERVICE  
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF THE MARTIN	)	
COUNTY WATER DISTRICT FOR	)	CASE NO. 2018-00017
ALTERNATIVE RATE ADJUSTMENT	)	

**RESPONSE TO MARTIN COUNTY CONCERNED CITIZEN'S  
POST HEARING REQUEST FOR INFORMATION**

\*\*\*\*\*

Comes the Martin County Water District (hereinafter District), by counsel, and for its' Response to the Martin County Concerned Citizen's Post Hearing Request for Information, and states as follows:

1. How many employees did the District have in 2016? How many employees does the District have now?

RESPONSE: See Exhibit #1.

2. On an annualized basis based on current staffing levels, what are the current salary and wage and benefits expenses for 2018?

RESPONSE: See Exhibit #2.

3. Linda Sumpter testified that late fees and penalties for late payment were included in the expenses for 2016. Provide the amount of charges for late fees or penalties for each expense category. If the District does not have or cannot calculate that information, state so affirmatively.

RESPONSE: See Exhibit #3.

4. What are the annualized costs of equipment currently being rented by the Martin District in 2018?

RESPONSE: See Exhibit #4.

5. Provide a copy of all communications between Zip Zone or its representatives regarding Zip Zone's recent demand for payment. State the name of the employee or agent of Zip Zone with whom Greg Scott communicated.

RESPONSE: See Exhibit #5.

6. Provide a copy of all results of in-home tap testing for Martin District customers conducted since Greg Scott became the Interim General Manager.

RESPONSE: See Exhibit #6.

7. Provide a copy of all communications between Greg Heitzman and Bob Scott, Director, Division of Abandoned Mine Land, regarding the scope of the work that can be performed under the \$3.4 million AML grant.

RESPONSE: See Exhibit #7.

8. Provide a copy of all contractual agreements entered into by the Martin District.

RESPONSE: See Exhibit #8.



BRIAN CUMBO  
COUNSEL FOR MARTIN COUNTY  
WATER DISTRICT  
P.O. BOX 1844  
INEZ, KY 41224  
TELEPHONE: (606) 298-0428  
TELECOPIER: (606) 298-0316  
EMAIL: [cumbolaw@cumbolaw.com](mailto:cumbolaw@cumbolaw.com)

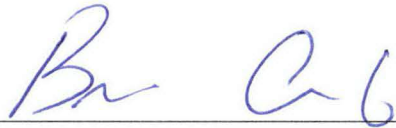
## CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the foregoing was hand-delivered and mailed, postage pre-paid, on this the 17th day of August, 2018, to the following:

Public Service Commission (*Via hand-delivery*)  
ATTN: Brittany Koenig  
P.O. Box 615  
Frankfort, KY 40602

Hon. Mary Varson Cromer (*Via USPS*)  
Appalachian Citizens' Law Center, Inc.  
317 Main Street  
Whitesburg, KY 41858

Hon. M. Todd Osterloh (*Via USPS*)  
Hon. James Wilson Gardner  
Sturgill, Turner, Barker & Moloney, PLLC  
333 West Vine Street, Ste. 1400  
Lexington, KY 40507

  
\_\_\_\_\_  
BRIAN CUMBO



**VERIFICATION**

I, Greg Scott, of the Martin County Water District, hereby verify that the foregoing is true and correct to the best of my knowledge.

  
\_\_\_\_\_  
GREG SCOTT

STATE OF KENTUCKY)

COUNTY OF MARTIN)

SUBSCRIBED, SWORN and ACKNOWLEDGED before me by Greg Scott this 16<sup>th</sup>  
day of August, 2018.

My Commission Expires: 9-18-18.

  
\_\_\_\_\_  
NOTARY PUBLIC, STATE AT LARGE

# EXHIBIT #1

**MARTIN COUNTY WATER DISTRICT**  
**Current Staffing Level August 15, 2018**

---

<b>No</b>	<b>Employee</b>	
1	EARL T. ALLEY	Full Time
2	KATHY L. CARTER	Part Time
3	MARCELLA A. DIALS	Full Time
4	JOHNATHAN K. HORN	Full Time
5	TROY R. HORN	Full Time
6	RAYMOND F. JUDE	Full Time
7	CAMERON JUSTICE	Full Time
8	JAMES L. MCCOY	Full Time
9	JOHN T. MILLS	Full Time
10	BRANDI D. MOORE	Part Time
11	ELBERT OSBORNE	Part Time
12	KATRINA L. SANSOM	Full Time
13	MICHAEL SARTIN	Full Time
14	CHARLES G. SCOTT	Full Time
15	JUSTIN R. SCOTT	Full Time
16	RYAN L. SMITH	Full Time
17	JOHN L. STAFFORD	Full Time

STAFFING LEVEL IN 2016 AVERAGED 16 TO 17 EMPLOYEES WITH A TOTAL OF 18 FOR THE YEAR

CURRENT STAFFING LEVEL AS OF AUGUST 15, 2019 IS 17 EMPLOYEES

The current staffing levels are very consistant with the 2016 levels

Control number 001		For Official Use Only OMB No. 1545-0008	
<b>b</b> Kind of Payer (Check one) <input checked="" type="checkbox"/> 941 Military <input type="checkbox"/> CT-1 <input type="checkbox"/> Hshld. emp. <input type="checkbox"/> 943 Medicare govt. emp. <input type="checkbox"/> 944		Kind of Employer (Check one) <input type="checkbox"/> None apply <input checked="" type="checkbox"/> State/local non-501c <input type="checkbox"/> 501c non-govt. <input type="checkbox"/> State/local 501c <input type="checkbox"/> Federal govt. <input type="checkbox"/> Third-party sick pay (Check if applicable)	
c Total number of Forms W-2 18		d Establishment number	1 Wages, tips, other compensation 546813.68
e Employer identification number (EIN)		3 Social security wages 547623.68	2 Federal income tax withheld 55178.50
f Employer's name MARTIN COUNTY WATER DISTRICT		5 Medicare wages and tips 547623.68	4 Social security tax withheld 33952.76
g Employer's address and ZIP code 387 EAST MAIN STREET SUITE 140 INEZ KY 41224 -		7 Social security tips	6 Medicare tax withheld 7940.51
		9	8 Allocated tips
		11 Nonqualified plans	10 Dependent care benefits
h Other EIN used this year		12a Deferred compensation 810.00	13 For third-party sick pay use only
15 State Employer's state ID number KY		14 Income tax withheld by payer of third-party sick pay	
16 State wages, tips, etc. 546813.68	17 State income tax 27319.63	18 Local wages, tips, etc. 574250.20	19 Local income tax 5742.70
Employer's contact person LINDA SUMPTER		Employer's telephone number 606 298-3885	For Official Use Only 0 0 0 0/1048
Employer's fax number		Employer's email address LINDA	

Under penalties of perjury, I declare that I have examined this return and accompanying documents and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date 01/07/17

## Form W-3 Transmittal of Wage and Tax Statements 2016

Department of the Treasury  
Internal Revenue Service

Send this entire page with the entire Copy A page of Form(s) W-2 to the Social Security Administration (SSA).  
Photocopies are not acceptable. Do not send Form W-3 if you filed electronically with the SSA.  
Do not send any payment (cash, checks, money orders, etc.) with Forms W-2 and W-3.

### Reminder

**Separate instructions.** See the 2016 General Instructions for Forms W-2 and W-3 for information on completing this form. Do not file Form W-3 for Form(s) W-2 that were submitted electronically to the SSA.

### Purpose of Form

A Form W-3 Transmittal is completed only when paper Copy A of Form(s) W-2, Wage and Tax Statement, is being filed. Do not file Form W-3 alone. All paper forms must comply with IRS standards and be machine readable. Photocopies are not acceptable. Use a Form W-3 even if only one paper Form W-2 is being filed. Make sure both the Form W-3 and Form(s) W-2 show the correct tax year and Employer Identification Number (EIN). Make a copy of this form and keep it with Copy D (For Employer) of Form(s) W-2 for your records. The IRS recommends retaining copies of these forms for four years.

### E-Filing

The SSA strongly suggests employers report Form W-3 and Forms W-2 Copy A electronically instead of on paper. The SSA provides two free e-filing options on its Business Services Online (BSO) website:

- **W-2 Online.** Use fill-in forms to create, save, print, and submit up to 50 Forms W-2 at a time to the SSA.
- **File Upload.** Upload wage files to the SSA that you have created using payroll or tax software that formats the files according to the SSA's *Specifications for Filing Form W-2 Electronically (EFW2)*.

W-2 Online fill-in forms or file uploads will be on time if submitted by **January 31, 2017**. For more information, go to [www.socialsecurity.gov/employer](http://www.socialsecurity.gov/employer). First time filers, select "Go to Register"; returning filers select "Go To Log In."

### When To File

Mail Form W-3 with Copy A of Form(s) W-2 by **January 31, 2017**.

### Where To File Paper Forms

Send this entire page with the entire Copy A page of Form(s) W-2 to:

**Social Security Administration  
Data Operations Center  
Wilkes-Barre, PA 18769-0001**

**Note.** If you use "Certified Mail" to file, change the ZIP code to "18769-0002." If you use an IRS-approved private delivery service, add "ATTN: W-2 Process, 1150 E. Mountain Dr." to the address and change the ZIP code to "18702-7997." See Publication 15 (Circular E), Employer's Tax Guide, for a list of IRS-approved private delivery services.

# EXHIBIT #2

**MARTIN COUNTY WATER DISTRICT  
ANNUALIZED PAYROLL AND BENEFITS FOR 2018**

No Employee	Pay Type	Hourly	Salary	Annual Base Rate	Social Security	Medicare	KY Unemp	Retirement	Health	Dental	Vision	Life
1	EARL T. ALLEY	Hourly		40,081.60	2,485.06	581.18	51.00	8,609.53	11,805.60	380.76	67.92	156.00
2	KATHY L. CARTER	Salaried	843.60	20,246.40	1,255.28	293.57	51.00	-	-	-	-	-
3	MARCELLA A. DIALS	Hourly		23,337.60	1,446.93	338.40	51.00	5,012.92	6,798.84	380.76	67.92	156.00
4	JOHNATHAN K. HORN	Hourly		23,670.40	1,467.56	343.22	51.00	5,084.40	-	-	-	-
5	TROY R. HORN	Hourly		23,670.40	1,467.56	343.22	51.00	5,084.40	5,041.56	380.76	67.92	156.00
6	RAYMOND F. JUDE	Hourly		29,848.00	1,850.58	432.80	51.00	6,411.35	11,805.60	380.76	67.92	-
7	CAMERON JUSTICE	Hourly		33,280.00	2,063.36	482.56	51.00	7,148.54	4,728.36	380.76	67.92	156.00
8	JAMES L. MCCOY	Hourly		23,670.40	1,467.56	343.22	51.00	5,084.40	-	-	-	-
9	JOHN T. MILLS	Hourly		40,081.60	2,485.06	581.18	51.00	8,609.53	6,798.84	380.76	67.92	156.00
10	BRANDI D. MOORE	Salaried	521.73	12,521.52	776.33	181.56	51.00	-	-	-	-	-
11	ELBERT OSBORNE	Hourly		31,200.00	1,934.40	452.40	51.00	-	-	-	-	-
12	KATRINA L. SANSOM	Hourly		21,590.40	1,338.60	313.06	51.00	4,637.62	6,076.80	380.76	67.92	156.00
13	MICHAEL SARTIN	Hourly		37,086.40	2,299.36	537.75	51.00	7,966.16	8,873.76	380.76	67.92	156.00
14	CHARLES G. SCOTT	Salaried	406.25	9,750.00	604.50	141.38	51.00	2,094.30	-	-	-	-
15	JUSTIN R. SCOTT	Hourly		27,830.40	1,725.48	403.54	51.00	5,977.97	4,454.28	380.76	67.92	156.00
16	RYAN L. SMITH	Hourly		23,670.40	1,467.56	343.22	51.00	5,084.40	5,559.12	380.76	67.92	156.00
17	JOHN L. STAFFORD	Hourly		23,670.40	1,467.56	343.22	51.00	5,084.40	5,419.92	380.76	67.92	156.00
<b>17 Totals</b>				<b>\$ 445,205.92</b>	<b>\$ 27,602.74</b>	<b>\$ 6,455.48</b>	<b>\$ 867.00</b>	<b>\$ 81,889.92</b>	<b>\$ 77,362.68</b>	<b>\$ 4,188.36</b>	<b>\$ 747.12</b>	<b>\$ 1,560.00</b>

THIS IS AN ANNUAL BASE RATE AND DOES NOT INCLUDE OVERTIME  
WAGES, SOCIAL SECURITY, MEDICARE AND RETIREMENT WILL INCREASE ACCORDINGLY

GROSS WAGES 01/01/18 TO 07/31/18 IS \$328,625.99 - ANNUALIZED THIS WOULD BE \$563,358.84

<b>ESTIMATED PAYROL FOR 2018</b>		<b>\$ 563,358.84</b>	<b>34,928.25</b>	<b>8,168.70</b>	<b>51.00</b>	<b>121,009.48</b>	<b>77,362.68</b>	<b>4,188.36</b>	<b>747.12</b>	<b>1,560.00</b>
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# EXHIBIT #3

**MARTIN COUNTY WATER DISTRICT  
SCHEDULE OF LATE FEES / FINANCE CHARGES 2016**

*The late fees and finance charges provided below were identified and classified in Account #675.8b Miscellaneous Expense AG, and classified as such in the 2016 financial statements. It is possible that some additional charges are recorded in the account of the original expenditure.*

<b>Vendor</b>	<b>Account ID</b>	<b>Description</b>	<b>Amount</b>
APPLE VALLEY SANITATION, INC	675.8b	Miscellaneous Expense AG	\$ 32.10
ASHLAND OFFICE SUPPLY	675.8b	Miscellaneous Expense AG	69.71
BOYD & SONS MACHINERY, LLC	675.8b	Miscellaneous Expense AG	48.87
CALIFORNIA CONTRACTORS SUPPLIE	675.8b	Miscellaneous Expense AG	6.00
CONSOLIDATED PIPE & SUPPLY CO	675.8b	Miscellaneous Expense AG	377.39
EVANS HARDWARE, INC.	675.8b	Miscellaneous Expense AG	3,393.36
J.J. KELLER & ASSOCIATES	675.8b	Miscellaneous Expense AG	40.00
KERMIT WATER & SEWER	675.8b	Miscellaneous Expense AG	1,485.23
MARTIN COUNTY COMMUNITY CENTER	675.8b	Miscellaneous Expense AG	892.10
PAINTSVILLE UTILITIES	675.8b	Miscellaneous Expense AG	13.62
R & J BUILDING SUPPLY	675.8b	Miscellaneous Expense AG	175.76
SAFEGUARD	675.8b	Miscellaneous Expense AG	10.86
WILSON EQUIPMENT COMPANY	675.8b	Miscellaneous Expense AG	55.89
<b>TOTALS FOR 2016</b>			<b>\$ 6,600.89</b>



# EXHIBIT #4

**Martin County Water District  
Schedule of Leased Equipment  
As of August 15, 2018**

<b>Vendor</b>	<b>Description</b>	<b>Per Month</b>	<b>Annual</b>
<b>Service Pump &amp; Supply Inc</b>	<b>Pump</b>	<b>\$ 2,719.50</b>	<b>\$ 32,634.00</b>
<b>Martin County Sanatiation Dist</b>	<b>Vehicles</b>		<b>1.00</b>
<b>TOTALS OF ALL LEASED EQUIPMENT</b>			<b>\$ 32,635.00</b>

# EXHIBIT #5

Representatives from the business office of Zip Zone contacted the District by telephone requesting payment on the past due account, which was approximately \$215,875.21 at that time. The General Manager decided that, as Zip Zone was a major supplier and essential for current operations as they were supplying diesel for emergency pumping operations at the river, and required transportation fuel for daily operations, payment be negotiated.

# EXHIBIT #6

KENTUCKY DIVISION OF WATER / DRINKING WATER RESULTS  
BACTERIOLOGICAL ANALYSIS REPORT FORM

Rev. 03/01/2012

General Information -- This Section To Be Completed By Collector

PWS ID: **K Y 0 8 0 0 2 7 3**  
 PWS Name: **Martin County Water District** PWS Contact: **Tom Alley**  
 PWS Address: **14 Flat Hollow, Inez KY 41224** PWS Phone: **606-298-7439 / 606-298-3885**  
 Compliance Period (MMYYYY): **0 6 2 0 1 8**  
 Collection Date (MMDDYYYY): **0 6 2 2 2 0 1 8**  
 Collector Name: **Raymond July 6-22-18**

General Information -- This Section To Be Completed By Lab

Lab ID: **0 0 0 8 0** Lab Receipt Date (MMDDYYYY): **0 6 2 2 2 0 1 8**  
 Analysis Date (MMDDYYYY): **0 6 2 2 2 0 1 8**  
 Lab Analyst: **Jackie Shell / 6-23-18**  
 Total Coliform Analysis Method Code: **3089**  
 E Coli Analysis Method Code: **0 0**  
 Lab Supervisor: **9/16/18 6-23-18**

Sample Information -- This Section To Be Completed By Collector

Analysis Information -- This Section To Be Completed By Lab

Sample Type (RT, RP, TG, CO, or SP) (See Key)	Special Sample Reason (A, B, C, D, or E) (See Key)	Repeat Location Code (DN, UP, or OR) (See Key)	Location Code (See Instructions)	Sample Time (24 hr)	Free Chlorine (Required for all disinfectants except Chloramine)	Total Chlorine (Required when disinfectant is Chloramine)
SPD			S01	1109	0.68	
SPD			S02	1037	1.07	

Lab Sample Number	Analysis Time (24 hr)	Result (Total Coliform Count - or - TNTC - or - CNFG - or - TCNG) (See Key)	Total Coliform (P/A)	E. Coli (P/A)	Lab Sample Number of Original Sample (Required for RP, TG, CO, and/or Replacement Samples) (See Instructions)
06180250	1435		A		
06180251	1435		A		

**CASH EXPRESS**  
 888-899-0399  
 6/23/18  
 8:45 AM  
 Jackie from Lab  
 called sample were  
 good (clean)

The signatories of this form certify by their signatures that collection and analysis of the water sample analyzed and the resulting data hereby submitted, were completed in accordance with the provisions of 401 KAR Chapter 8, specifically including but not limited to 401 KAR 8:200, Section 1 and 401 KAR 8:040; and that the data submitted on this form is a true and accurate report of the results of collection and analysis performed pursuant to the above-referenced regulations. Violations of 401 KAR Chapter 8 are subject to severe penalties prescribed in KRS 224.99-010, up to \$25,000 fine per day per violation and in some cases a violation may subject the violator to prison.

**BACTERIOLOGICAL ANALYSIS REPORT FORM KEY**

Sample Type:	RT = Routine (For Compliance)	RP = Repeat (For Compliance)
Special Sample Reason: (Only if Sample Type = SP)	TG = Triggered (For Compliance)	CO = Confirmation (For Compliance)
Repeat Location Code: (Only if Sample Type = RP)	A = Suspected Contamination	B = New Plant, Modification, or Line Ex
Result:	D = Study/Investigation	E = Line Break, Emergency Repair
	DN = Downstream	UP = Upstream
	TNTC = Too Numerous to Count	CNFG = Confluent Growth

Loans  
 Checks Cashed  
 (Mike)

# EXHIBIT #7

## Cumbo Law

---

**From:** Brian Cumbo  
**Sent:** Thursday, August 16, 2018 10:45 AM  
**To:** Cumbo Law  
**Subject:** Fwd: Martin County Water

Sent from my iPhone

Begin forwarded message:

**From:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Date:** August 16, 2018 at 10:44:23 AM EDT  
**To:** Brian Cumbo <[brian@cumbolaw.com](mailto:brian@cumbolaw.com)>  
**Cc:** John Horn <[johnglennhorn@gmail.com](mailto:johnglennhorn@gmail.com)>, Jimmy Kerr <[jkerr.myhometownmtg@polarishfc.com](mailto:jkerr.myhometownmtg@polarishfc.com)>, Greg Scott <[greg\\_scott818@yahoo.com](mailto:greg_scott818@yahoo.com)>  
**Subject:** Fwd: Martin County Water

Brian, see the email below regarding communication to Bob Scott on the AML project.

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

Begin forwarded message:

**From:** "Scott, Bob F (EEC)" <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Date:** January 26, 2018 at 6:56:01 AM EST  
**To:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Subject:** Re: Martin County Water

Thanks, my office is in the 300 Building on Sower Blvd. next to the PSC building. I will wait for your call at 502-782-6761.

On Jan 25, 2018, at 5:40 PM, Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)> wrote:

Bob, Thanks, I have a PSC hearing on Martin Co at 9:30 am Friday, and I will call you when finished. Should be around 11:30.

In light of the recent water supply crisis in Martin Co, items 1,3,4 would be the household priority, at an estimated \$3.2 million. These 3 projects would address the source water supply issue.

The remaining items #2,5 (service line and water line replacement) can be pursued with future grant/loans from ARC, RD, etc.

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky



On Jan 25, 2018, at 3:58 PM, Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)> wrote:

Secretary Charles Snively provided your contact information to me regarding the Division of Abandoned Mine Lands funding a water infrastructure project in Martin County as part of the 2017 AML Pilot Project grant. I have attached the application that was provided to AML for consideration. Secretary Snively indicated that you may be in Frankfort on Friday for a meeting at the PSC. Currently I am scheduled to be in the office on Friday and would be available to meet with you.

*Bob Scott, PE, PLS  
Director, KY Division of Abandoned Mine Lands  
300 Sower Boulevard, Frankfort, KY 40601  
Office: 502-782-6761  
e-mail: [BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)*

<Martin County Water District AML Scan.pdf>

## Cumbo Law

---

**From:** Brian Cumbo  
**Sent:** Thursday, August 16, 2018 10:45 AM  
**To:** Cumbo Law  
**Subject:** Fwd: Martin County AML grant

Sent from my iPhone

Begin forwarded message:

**From:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Date:** August 16, 2018 at 10:41:51 AM EDT  
**To:** Brian Cumbo <[brian@cumbolaw.com](mailto:brian@cumbolaw.com)>  
**Cc:** John Horn <[johnglennhorn@gmail.com](mailto:johnglennhorn@gmail.com)>, Jimmy Kerr <[jkerr.myhometownmtg@polarishfc.com](mailto:jkerr.myhometownmtg@polarishfc.com)>, Greg Scott <[greg\\_scott818@yahoo.com](mailto:greg_scott818@yahoo.com)>  
**Subject:** Fwd: Martin County AML grant

Brian, see the email below regarding communication to Bob Scott on the AML project.

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

Begin forwarded message:

**From:** "Scott, Bob F (EEC)" <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Date:** June 21, 2018 at 12:48:40 PM EDT  
**To:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Subject:** Re: Martin County AML grant

As long as it meets model procurement standards AML is okay with it

Bob Scott, Director, KY AML

On Jun 21, 2018, at 12:13 PM, Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)> wrote:

Bob, Martin County Water District Board desires to issue a new RFP for engineers. Would AML be OK with a process where we pre-approve 3 Engineering firms (from a list of all who submit proposals) to perform design work, and then pick from one of those three for the \$3.4 million AML project. So then when future ARC, CDBG, RD, AML, SRF projects come along we just pick one of the firms from this prequalified list.

Do you see any concern with this process. We will advertise for SOQs and Proposals, rank the firms based on qualifications, experience, etc, and then choose 3 firms to be prequalified. Then when a specific project

comes up, we select one of the three firms, ask for a specific cost proposal, negotiate the final fee, and then award the contract.

The advantage of the District is to have multiple firms compete for the business, spread the work around, and take advantage of the varied skill sets of different firms.

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
502-533-5073 mobile

## Cumbo Law

---

**From:** Brian Cumbo  
**Sent:** Thursday, August 16, 2018 10:46 AM  
**To:** Cumbo Law  
**Subject:** Fwd: MOA No. 1900000095 - Martin County Water Improvements 2017 AML Pilot  
**Attachments:** SC-128-1900000095.pdf; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

**From:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Date:** August 16, 2018 at 10:37:42 AM EDT  
**To:** Brian Cumbo <[brian@cumbolaw.com](mailto:brian@cumbolaw.com)>  
**Cc:** John Horn <[johnglennhorn@gmail.com](mailto:johnglennhorn@gmail.com)>, Jimmy Kerr <[jkerr.myhometownmtg@polarishfc.com](mailto:jkerr.myhometownmtg@polarishfc.com)>, Greg Scott <[greg\\_scott818@yahoo.com](mailto:greg_scott818@yahoo.com)>  
**Subject:** Fwd: MOA No. 1900000095 - Martin County Water Improvements 2017 AML Pilot

Brian, see the email below with Bob Scott regarding the AML grant agreement.

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

Begin forwarded message:

**From:** "Scott, Bob F (EEC)" <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Date:** July 10, 2018 at 3:15:55 PM EDT  
**To:** "Gregory Heitzman ([Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com))" <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Subject:** FW: MOA No. 1900000095 - Martin County Water Improvements 2017 AML Pilot

Attached is the PDF copy of the MOA

---

**From:** Scott, Bob F (EEC)  
**Sent:** Monday, July 09, 2018 4:28 PM  
**To:** Gregory Heitzman ([Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)) <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Subject:** FW: MOA No. 1900000095 - Martin County Water Improvements 2017 AML Pilot

Will you be involved in the Martin County AML project? Our MOA has been in place for several weeks.

*Bob Scott, PE, PLS  
Director, KY Division of Abandoned Mine Lands*

300 Sower Boulevard, Frankfort, KY 40601  
Office: 502-782-6761  
e-mail: [BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)

---

**From:** Overman, Charles W (EEC)  
**Sent:** Monday, July 09, 2018 3:45 PM  
**To:** Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Subject:** FW: MOA No. 1900000095 - Martin County Water Improvements 2017 AML Pilot

The Martin County Water Improvements Pilot MOA was final as of 6/28/18. I sent to BSADD the same day (see below). I have not received a response.

---

**From:** Overman, Charles W (EEC)  
**Sent:** Thursday, June 28, 2018 9:26 AM  
**To:** 'monica.spriggs@bigsandy.org'  
**Cc:** 'Thomas, Denise'  
**Subject:** FW: MOA No. 1900000095 - Martin County Water Improvements 2017 AML Pilot

FYI

---

**From:** Cook, Amanda (EEC)  
**Sent:** Thursday, June 28, 2018 7:16 AM  
**To:** [sandy.runyon@bigsandy.org](mailto:sandy.runyon@bigsandy.org)  
**Cc:** Wilson, Sara Beth (EEC); Trent, Travis (EEC); Overman, Charles W (EEC)  
**Subject:** Memorandum of Agreement No. 1900000095

Attached is a copy of the fully executed Memorandum of Agreement No. 1900000095 between the Commonwealth of Kentucky, Energy and Environment Cabinet, Division of Abandoned Mine Lands and Big Sandy Area Development District.

If you have any questions, please contact Bill Overman at [Bill.Overman@ky.gov](mailto:Bill.Overman@ky.gov) or 502-782-6726.

Thank you,

*Amanda L. Cook*

Office of Administrative Services  
Energy and Environment Cabinet  
300 Sower Blvd  
Frankfort, KY 40601  
502-782-6927  
[Amanda.Cook@ky.gov](mailto:Amanda.Cook@ky.gov)

## Cumbo Law

---

**From:** Brian Cumbo  
**Sent:** Thursday, August 16, 2018 10:46 AM  
**To:** Cumbo Law  
**Subject:** Fwd: MOA No. 1900000095 - Martin County Water Improvements 2017 AML Pilot

Sent from my iPhone

Begin forwarded message:

**From:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Date:** August 16, 2018 at 10:39:38 AM EDT  
**To:** Brian Cumbo <[brian@cumbolaw.com](mailto:brian@cumbolaw.com)>  
**Cc:** John Horn <[johnglennhorn@gmail.com](mailto:johnglennhorn@gmail.com)>, Jimmy Kerr <[jkerr.myhometownmtg@polarishfc.com](mailto:jkerr.myhometownmtg@polarishfc.com)>, Greg Scott <[greg\\_scott818@yahoo.com](mailto:greg_scott818@yahoo.com)>  
**Subject:** Fwd: MOA No. 1900000095 - Martin County Water Improvements 2017 AML Pilot

Brian, see the email below communication no with Bob Scott of AML.

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

Begin forwarded message:

**From:** "Scott, Bob F (EEC)" <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Date:** July 10, 2018 at 11:58:03 AM EDT  
**To:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Subject:** RE: MOA No. 1900000095 - Martin County Water Improvements 2017 AML Pilot

It made it through the system without a signature line for the district. We can be sure to include a signature line for the district on all invoicing for the project.

*Bob Scott, PE, PLS  
Director, KY Division of Abandoned Mine Lands  
300 Sower Boulevard, Frankfort, KY 40601  
Office: 502-782-6761  
e-mail: [BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)*

---

**From:** Gregory Heitzman [<mailto:Gheitzman@bluewaterky.com>]  
**Sent:** Tuesday, July 10, 2018 11:53 AM  
**To:** Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>

**Subject:** Re: MOA No. 1900000095 - Martin County Water Improvements 2017 AML Pilot

Bob, let me call you Wed for an update (I'm tied up today at a water conference). I'm waiting to see if the Martin Water Board wants to issue a new RFP for AML Engineer.

Has the District signed the MOA?

Greg Heitzman, PE, MBA  
BlueWater Kentucky  
502-533-5073

On Jul 9, 2018, at 3:28 PM, Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)> wrote:

Will you be involved in the Martin County AML project? Our MOA has been in place for several weeks.

*Bob Scott , PE, PLS  
Director, KY Division of Abandoned Mine Lands  
300 Sower Boulevard, Frankfort, KY 40601  
Office: 502-782-6761  
e-mail: [BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)*

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**From:** Overman, Charles W (EEC)  
**Sent:** Monday, July 09, 2018 3:45 PM  
**To:** Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
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FYI

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**Cc:** Wilson, Sara Beth (EEC); Trent, Travis (EEC); Overman, Charles W (EEC)  
**Subject:** Memorandum of Agreement No. 1900000095

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If you have any questions, please contact Bill Overman at [Bill.Overman@ky.gov](mailto:Bill.Overman@ky.gov) or 502-782-6726.

Thank you,

*Amanda L. Cook*

Office of Administrative Services  
Energy and Environment Cabinet  
300 Sower Blvd  
Frankfort, KY 40601  
502-782-6927  
[Amanda.Cook@ky.gov](mailto:Amanda.Cook@ky.gov)

<SC-128-1900000095.pdf>



## Cumbo Law

---

**From:** Brian Cumbo  
**Sent:** Thursday, August 16, 2018 10:46 AM  
**To:** Cumbo Law  
**Subject:** Fwd: Martin Co AML Grant

Sent from my iPhone

Begin forwarded message:

**From:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Date:** August 16, 2018 at 10:35:01 AM EDT  
**To:** Brian Cumbo <[brian@cumbolaw.com](mailto:brian@cumbolaw.com)>  
**Cc:** John Horn <[johnglennhorn@gmail.com](mailto:johnglennhorn@gmail.com)>, Jimmy Kerr <[jkerr.myhometownmtg@polarishfc.com](mailto:jkerr.myhometownmtg@polarishfc.com)>, Greg Scott <[greg\\_scott818@yahoo.com](mailto:greg_scott818@yahoo.com)>  
**Subject:** Fwd: Martin Co AML Grant

Brian, here is a email communication to Bob Scott regarding the AML grant project.

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

Begin forwarded message:

**From:** "Scott, Bob F (EEC)" <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Date:** August 4, 2018 at 10:18:49 AM EDT  
**To:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Subject:** Re: Martin Co AML Grant

Yes, it would be possible to adjust grant funding.

Bob Scott, PE, PLS  
Director, Division of Abandoned Mine Lands

On Aug 3, 2018, at 5:32 PM, Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)> wrote:

Bob, I want to update you on the Martin County AML project. At their July meeting, the MC Board authorized a new design RFP. I'm working with the ADD on the RFP process. We expect to advertise next 1-2 weeks, accept proposals in early Sept, award by mid Sept, initiate design in Oct, begin Const in late spring 2019, complete by Oct 2020.

Due to pressing supply needs at the intake, the District has already made some modifications for source reliability. I want to see if we can adjust the AML grant scope during the design phase to do some additional plant work if funds allow. If so, we will broaden the RFP scope of design work to include some additional plant work.

Thanks, let me know if this approach will satisfy AML.

Greg Heitzman, PE, MBA  
BlueWater Kentucky  
502-533-5073

## Cumbo Law

---

**From:** Brian Cumbo  
**Sent:** Thursday, August 16, 2018 10:46 AM  
**To:** Cumbo Law  
**Subject:** Fwd: Martin County AML Project

Sent from my iPhone

Begin forwarded message:

**From:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Date:** August 16, 2018 at 10:45:19 AM EDT  
**To:** Brian Cumbo <[brian@cumbolaw.com](mailto:brian@cumbolaw.com)>  
**Cc:** John Horn <[johnglennhorn@gmail.com](mailto:johnglennhorn@gmail.com)>, Jimmy Kerr <[jkerr.myhometownmtg@polarishfc.com](mailto:jkerr.myhometownmtg@polarishfc.com)>, Greg Scott <[greg\\_scott818@yahoo.com](mailto:greg_scott818@yahoo.com)>  
**Subject:** Fwd: Martin County AML Project

Brian, see the email below regarding communication to Bob Scott on the AML project.

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

Begin forwarded message:

**From:** Robert Taylor <[rtaylor@kyengr.com](mailto:rtaylor@kyengr.com)>  
**Date:** May 8, 2018 at 8:58:10 AM EDT  
**To:** "Scott, Bob F (EEC)" <[bobf.scott@ky.gov](mailto:bobf.scott@ky.gov)>, "Overman, Charles W (EEC)" <[bill.overman@ky.gov](mailto:bill.overman@ky.gov)>, Gregory Heitzman <[gheitzman@bluewaterky.com](mailto:gheitzman@bluewaterky.com)>  
**Subject:** Re: Martin County AML Project

Thanks

Get [Outlook for iOS](#)

---

**From:** Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Sent:** Tuesday, May 8, 2018 8:52:36 AM  
**To:** Robert Taylor; Overman, Charles W (EEC); Gregory Heitzman  
**Subject:** Re: Martin County AML Project

The MOA is at Big Sandy ADD waiting review and signature

Bob Scott  
Director, KY AML  
502-782-6761

On May 8, 2018, at 8:19 AM, Robert Taylor <[rtaylor@kyengr.com](mailto:rtaylor@kyengr.com)> wrote:

Bob,

Just checking to see if we are any closer to preparing an engineering agreement for this project? I met with Greg Scott, Manager of Martin County Water District yesterday and they are anxious to get started.

If there is anything I need to do to move this along let me know!

Thanks

<image002.png>

**Robert E. Taylor, Jr.**  
**Kentucky Engineering Group, PLLC**  
P.O. Box 1034  
Versailles, KY 40383  
Office: 859.251.4127  
Office Fax: 859.251.4137  
Cell: 859.608.8927  
e-mail: [rtaylor@kyengr.com](mailto:rtaylor@kyengr.com)  
[www.kyengr.com](http://www.kyengr.com)

Notice: The information contained in this communication is privileged and confidential. It is intended only for the recipient named above. If you have received this communication in error, please contact the sender at (859) 251-4127 and delete this message from your system.

## Cumbo Law

---

**From:** Brian Cumbo  
**Sent:** Thursday, August 16, 2018 10:53 AM  
**To:** Cumbo Law  
**Subject:** Fwd: Martin County Letter

Sent from my iPhone

Begin forwarded message:

**From:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Date:** August 16, 2018 at 10:52:14 AM EDT  
**To:** Brian Cumbo <[brian@cumbolaw.com](mailto:brian@cumbolaw.com)>  
**Cc:** John Horn <[johnglennhorn@gmail.com](mailto:johnglennhorn@gmail.com)>, Jimmy Kerr <[jkerr.myhometownmtg@polarishfc.com](mailto:jkerr.myhometownmtg@polarishfc.com)>, Greg Scott <[greg\\_scott818@yahoo.com](mailto:greg_scott818@yahoo.com)>  
**Subject:** Re: Martin County Letter

Brian, see the email below regarding communication to Bob Scott on the AML project.

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

On Feb 27, 2018, at 8:10 AM, Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)> wrote:

This is the original letter sent. A revised letter has not been sent with a \$3.4 million dollar total, but the \$3.4 million total was included in the vetting documents to OSMRE. The next step for AML will be to establish a Memorandum of Agreement with either Big Sandy Area Development District or Martin County Water District that will allow engineering design to begin. If we choose to go with BSADD then we will require a signature line on all pay invoices from both BSADD and MCWD.

*Bob Scott, PE, PLS  
Director, KY Division of Abandoned Mine Lands  
300 Sower Boulevard, Frankfort, KY 40601  
Office: 502-782-6761  
e-mail: [BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)*

<2017\_KY\_AML\_Martin Water.pdf>

## Cumbo Law

---

**From:** Brian Cumbo  
**Sent:** Thursday, August 16, 2018 10:54 AM  
**To:** Cumbo Law  
**Subject:** Fwd: AML Grant Award for Martin County Water District

Sent from my iPhone

Begin forwarded message:

**From:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Date:** August 16, 2018 at 10:50:32 AM EDT  
**To:** Brian Cumbo <[brian@cumbolaw.com](mailto:brian@cumbolaw.com)>  
**Cc:** John Horn <[johnglenhorn@gmail.com](mailto:johnglenhorn@gmail.com)>, Jimmy Kerr <[jkerr.myhometownmtg@polarishfc.com](mailto:jkerr.myhometownmtg@polarishfc.com)>, Greg Scott <[greg\\_scott818@yahoo.com](mailto:greg_scott818@yahoo.com)>  
**Subject:** Fwd: AML Grant Award for Martin County Water District

Brian, see the email below regarding communication to Bob Scott on the AML project.

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

Begin forwarded message:

**From:** Paul Kincheloe <[Paul.Kincheloe@BigSandy.Org](mailto:Paul.Kincheloe@BigSandy.Org)>  
**Date:** March 9, 2018 at 8:05:10 AM EST  
**To:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Subject:** RE: AML Grant Award for Martin County Water District

When can you call me so I can update this in the WRIS portal?

---

**From:** Gregory Heitzman [<mailto:Gheitzman@bluewaterky.com>]  
**Sent:** Tuesday, March 06, 2018 11:45 AM  
**To:** Paul Kincheloe  
**Subject:** Re: AML Grant Award for Martin County Water District

I'll call you later today to update the project profile in the WRIS.

Greg Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073)

On Mar 6, 2018, at 9:50 AM, Paul Kincheloe <[Paul.Kincheloe@BigSandy.Org](mailto:Paul.Kincheloe@BigSandy.Org)> wrote:

Hey greg this is the original profile that was submitted for the AML funding job. Could you give me a quick project description and need for project.

When you can just give me a call

Thanks,  
Paul "P.D." Kincheloe  
Water Management Coordinator  
Big Sandy Area Development District  
110 Resource Court  
Prestonsburg, KY 41653  
606-886-2374 Ext 342 (phone)  
606-886-3382 (fax)  
606-369-4405 (cell)

---

**From:** Gregory Heitzman [<mailto:Gheitzman@bluewaterky.com>]  
**Sent:** Monday, March 05, 2018 10:51 PM  
**To:** Montgomery, Brandon  
**Cc:** Runyon, Sandy; [rtaylor@kyengr.com](mailto:rtaylor@kyengr.com); John Horn; Paul Kincheloe; Jimmy Kerr; Bob Scott  
**Subject:** AML Grant Award for Martin County Water District

Brandon, Bob Scott of KY AML has advised the District of a \$3.4 million AML grant for upgrades to the Martin County source water supply and SCADA system.

In late January, I worked with Bob Scott and Bob Taylor of Kentucky Engineering Group, to revise the application to fit the eligibility requirements of the AML regular and pilot program. We essentially removed the water main and service line replacement from the application and project scope, since that portion of the work did not tie to economic development. With a change in Board leadership, Chairman John Horn signed the revised application.

I have attached the revised application for your records. Bob Scott advises the next step is to enter into a MOA with the state. We are thinking a three party agreement between the District, Big Sandy ADD and the State.

We have a new General Manager, Greg Scott. Joe Hammond retired at the end of February.

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

## Cumbo Law

---

**From:** Brian Cumbo  
**Sent:** Thursday, August 16, 2018 10:54 AM  
**To:** Cumbo Law  
**Subject:** Fwd: Martin County Water District AML Grant

Sent from my iPhone

Begin forwarded message:

**From:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Date:** August 16, 2018 at 10:48:46 AM EDT  
**To:** Brian Cumbo <[brian@cumbolaw.com](mailto:brian@cumbolaw.com)>  
**Cc:** John Horn <[johnglennhorn@gmail.com](mailto:johnglennhorn@gmail.com)>, Jimmy Kerr <[jkerr.myhometownmtg@polarishfc.com](mailto:jkerr.myhometownmtg@polarishfc.com)>, Greg Scott <[greg\\_scott818@yahoo.com](mailto:greg_scott818@yahoo.com)>  
**Subject:** Fwd: Martin County Water District AML Grant

Brian, see the email below regarding communication to Bob Scott on the AML project.

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

Begin forwarded message:

**From:** "Scott, Bob F (EEC)" <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Date:** March 9, 2018 at 4:29:21 PM EST  
**To:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Subject:** RE: Martin County Water District AML Grant

The MOA process at its fastest will be a month or so before it is approved. No work can be authorized until the MOA is in place but I have seen a two to three month design completed in a week.

---

**From:** Gregory Heitzman [<mailto:Gheitzman@bluewaterky.com>]  
**Sent:** Friday, March 09, 2018 4:24 PM  
**To:** Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Subject:** Re: Martin County Water District AML Grant

Thanks, pls copy me so I can keep things moving. Should we begin engineering or hold up till we get the MOA signed.

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile



On Mar 9, 2018, at 4:22 PM, Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)> wrote:

AML is drafting the agreement and will circulate for review and comments when it is completed.

*Bob Scott , PE, PLS  
Director, KY Division of Abandoned Mine Lands  
300 Sower Boulevard, Frankfort, KY 40601  
Office: 502-782-6761  
e-mail: [BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)*

---

**From:** Gregory Heitzman [<mailto:Gheitzman@bluewaterky.com>]  
**Sent:** Friday, March 09, 2018 4:18 PM  
**To:** Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Cc:** Paul David (PD) Kincheloe <[paul.kincheloe@bigsandy.org](mailto:paul.kincheloe@bigsandy.org)>; Greg Scott <[greg\\_scott818@yahoo.com](mailto:greg_scott818@yahoo.com)>  
**Subject:** Martin County Water District AML Grant

Bob, I want to check in on the MOA for the \$3.4M grant from AML to upgrade the water intake and install a new SCADA system.

Can you provide an update? I talked to Paul Kincheloe of the Big Sandy ADD to update the WRIS project profile to match the grant project scope. I believe everyone is on board to have a three party agreement between the state, ADD and Martin County Water District.

Also, I copied Greg Scott on this email. Greg is the newly appointed General Manager of the Martin County Water District. Joe Hammond, their business manager, retired in February.

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

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**Cc:** John Horn <[johnglennhorn@gmail.com](mailto:johnglennhorn@gmail.com)>, Jimmy Kerr <[jkerr.myhometownmtg@polarishfc.com](mailto:jkerr.myhometownmtg@polarishfc.com)>, Greg Scott <[greg\\_scott818@yahoo.com](mailto:greg_scott818@yahoo.com)>  
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BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

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**Subject:** Re: Martin County Water District AML Grant

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Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

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*Bob Scott, PE, PLS  
Director, KY Division of Abandoned Mine Lands  
300 Sower Boulevard, Frankfort, KY 40601  
Office: 502-782-6761  
e-mail: [BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)*

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**Sent:** Friday, March 09, 2018 4:18 PM  
**To:** Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Cc:** Paul David (PD) Kincheloe <[paul.kincheloe@bigsandy.org](mailto:paul.kincheloe@bigsandy.org)>; Greg Scott <[greg\\_scott818@yahoo.com](mailto:greg_scott818@yahoo.com)>  
**Subject:** Martin County Water District AML Grant

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Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

## Cumbo Law

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**From:** Brian Cumbo  
**Sent:** Thursday, August 16, 2018 10:54 AM  
**To:** Cumbo Law  
**Subject:** Fwd: Draft Martin County MOA  
**Attachments:** 4\_AttachmentC\_ProjectStatusReportTemplate\_3.13.18\_MartinCountyWaterImpro....docx; ATT00001.htm; 3\_Attachment B\_Budget\_3.13.18\_MartinCountyWaterImprovementsPilot.docx; ATT00002.htm; 2\_AttachmentA\_ScopeOfServiceTemplateRegular\_3.13.18\_MartinCountyWaterImp....docx; ATT00003.htm; 1-MOABoilerplateFebruary2018\_3.13.18\_MartinCountyWaterImprovementsPilot.docx; ATT00004.htm; 6\_SignatureLines-EEC\_3.13.18\_MartinCountyWaterImprovementsPilot.docx; ATT00005.htm; 5\_AttachmentD-SEPAAssurances\_3.13.18\_MartinCountyWaterImprovementsPilot.docx; ATT00006.htm

Sent from my iPhone

Begin forwarded message:

**From:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Date:** August 16, 2018 at 10:46:39 AM EDT  
**To:** Brian Cumbo <[brian@cumbolaw.com](mailto:brian@cumbolaw.com)>  
**Cc:** John Horn <[johnglennhorn@gmail.com](mailto:johnglennhorn@gmail.com)>, Jimmy Kerr <[jkerr.myhometownmtg@polarishfc.com](mailto:jkerr.myhometownmtg@polarishfc.com)>, Greg Scott <[greg\\_scott818@yahoo.com](mailto:greg_scott818@yahoo.com)>  
**Subject:** Fwd: Draft Martin County MOA

Brian, see the email below regarding communication to Bob Scott on the AML project.

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

Begin forwarded message:

**From:** "Scott, Bob F (EEC)" <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Date:** March 30, 2018 at 11:29:23 AM EDT  
**To:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Subject:** RE: Draft Martin County MOA

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**From:** Gregory Heitzman [<mailto:Gheitzman@bluewaterky.com>]  
**Sent:** Thursday, March 29, 2018 8:25 PM  
**To:** Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Subject:** Re: Draft Martin County MOA

Bob, for some reason I at read these XML files. Can you re-send as PDF, Word, or XL files?

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
502-533-5073 mobile

On Mar 29, 2018, at 10:05 AM, Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)> wrote:

Please review this MOA document and let me know if there are things that need to be changed. Greg, please review the scope of work in conjunction with Bob Taylor and make sure we have what you intended to fund.

Sorry if I offended any by expressing my opinion in the conference call, perhaps there was a lack of understanding on the suggester that your project change scope in how much has been invested and prepared at this point.

*Bob Scott , PE, PLS  
Director, KY Division of Abandoned Mine Lands  
300 Sower Boulevard, Frankfort, KY 40601  
Office: 502-782-6761  
e-mail: [BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)*

---

**From:** Overman, Charles W (EEC)  
**Sent:** Thursday, March 29, 2018 10:31 AM  
**To:** Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Subject:** RE: Draft Martin County MOA

attached

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**From:** Scott, Bob F (EEC)  
**Sent:** Thursday, March 29, 2018 10:27 AM  
**To:** Overman, Charles W (EEC)  
**Subject:** Draft Martin County MOA

Please send me the draft Martin County MOA

*Bob Scott , PE, PLS  
Director, KY Division of Abandoned Mine Lands  
300 Sower Boulevard, Frankfort, KY 40601  
Office: 502-782-6761  
e-mail: [BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)*

**Attachment C**

**Division of Abandoned Mine Lands AML Water Supply  
Project Status Report Template**

**The reporting template should be submitted as required by  
the scope of work in Attachment A.**

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**Grant Recipient Name:**

**Project Name:**

**Principal Investigator/Project Manager:**

**Date Submitted:**

**Reporting Period: (month & year)**

---

**Accomplishments, publicity, news:**

*(Provide an update on project activities, any publicity on the project, including links to articles)*

---

**Performance outcome data/metrics:**

*(Provide updates on specific activity targets, project timelines and/or metrics from the grant agreement)*

---

**Problems, issues, variances from plan:**

*(Provide updates on any problems with project activities, timelines, any variances from the original work plan)*

**Attachment B**

**Water System Controls and Raw Water Modifications AML Pilot Project**

<b>Categories</b>	<b>Division of Abandoned Mine Lands</b>	<b>Cost Share/In-kind Match</b>	<b>Total</b>
Design	\$202,000.00	\$0.00	\$202,000.00
Construction/Equipment/Supplies	\$3,100,000.00	\$0.00	\$3,100,000.00
Inspection	\$123,000.00	\$0.00	\$123,000.00
Project Management	\$25,000.00	\$0.00	\$25.00
Other	\$0.00	\$0.00	\$0.00
<b>Total Direct Charges</b>	<b>\$3,450,000.00</b>	<b>\$0.00</b>	<b>\$3,450,000.00</b>
Indirect Charges (up to 10% of Contractor's Total Direct Charges) **	\$0.00	\$0.00	\$0.00
Contractual	\$0.00	\$0.00	\$0.00
<b>Total</b>	<b>\$3,450,000.00</b>	<b>\$0.00</b>	<b>\$3,450,000.00</b>
Program Income	\$0.00	\$0.00	\$0.00

**A detailed budget template provided by the Big Sandy Area Development District - BSADD, or their contracted engineering firm, shall be completed and submitted to the Division of Abandoned Mine Lands (Attn: Bill Overman) prior to the start of the project and before the start of each fiscal year.**

**\*\* RECIPIENT INDIRECT:**

If the recipient is receiving state funds the recipient may not charge indirect costs in excess of ten (10) percent of total direct costs. An indirect rate **shall not** be charged on contractual expenditures. Indirect charges exceeding the ten (10) percent shall be considered as cost share provided by the recipient.

If the recipient is receiving federal funds the recipient shall use the indirect rate corresponding with the agreement the recipient has with the federal entity or ten (10) percent. The recipient shall provide a copy of the indirect agreement prior to the federal funds being awarded.

## **Attachment A**

### **Scope of Work or Service**

#### **Big Sandy Area Development District (BSADD) and the Martin County Water District**

**for the**

#### **Water System Controls and Raw Water Modifications AML Pilot Project**

The Water System Controls and Raw Water Modifications AML PILOT Project is being proposed for funding as part of the Department of Interior's (DOI) Office of Surface Mining Reclamation and Enforcement (OSMRE) Abandoned Mine Land Reclamation FY 2017 \$25,000,000.00 (Twenty Five Million) Economic Development Pilot Program (AML Pilot). This project was chosen by Kentucky because it was deemed to offer potential significant benefits for coal field communities via a positive impact towards AML cleanup and economic and community development.

The Kentucky Energy and Environment Cabinet, Division of Abandoned Mine Lands shall reimburse the Big Sandy Area Development District - BSADD ("the Contractor") up to \$3,450,000.00 for the following activities related to the Water System Controls and Raw Water Modifications AML Pilot Project.

#### **SCOPE OF WORK OR SERVICE**

1. Installation of a secondary raw water intake in the Tug Fork River to provide redundancy.
2. Piping, pumps, and controls will be upgraded to provide for this second intake.
3. Extend the existing raw water transmission main pipe from the Crum Reservoir to the existing water treatment plant (approximately 3,500' of 16" ductile iron pipe).
4. Construct a new reservoir intake structure.
5. Install a new system-wide telemetry SCADA control system to allow operators to monitor water tanks, pump stations, and control valves within the system from the water treatment plant location.
6. Rehabilitation of one of three water treatment plant clarifier/filters (only if funds are available). This rehabilitation work will allow the water treatment plant to improve water quality and to maintain water capacity when servicing the other clarifier/filter units. The water treatment plant is located on the Inez 7.5' United States Geological Survey (USGS) quadrangle at Latitude 37 ° 52' 27" and Longitude -82° 31' 19".



7. Other closely associated work necessary for the development of this project, as authorized under this MOA, and approved in writing by the Cabinet.
8. All necessary engineering, design, inspection, and permitting services related to the above-described work.
9. Included in the maximum-allowable reimbursement to the Contractor (BSADD) is a management fee described as follows:

Payment to the Contractor, of up to \$25,000.00 total, for financial administration, oversight, and management of the project by the Contractor for the entire length of the project/duration of this MOA as described herein. These payments shall be made in uniform amounts, as much as possible, in conjunction with the submittal of monthly invoices. A minimum of four payments will be made with the final payment (from the \$25,000.00 total) equaling \$5,000.00. This final payment is only payable upon receiving a complete final invoice for the project. These payments are considered full compensation for all financial administration, oversight, and management duties required herein. Requests for payment should include a listing of all financial administration, oversight, and management fees earned to date along with the current request. Financial administration, oversight, and management includes:

1. Salaries and fringe benefits for one Manager and one Accounts Payable Clerk/Administrative Assistant, as necessary;
2. Incidentals (rent, telephone, office supplies, copies, travel, and other necessary and properly justified and documented expenses);
3. Attorney fees as necessary;
4. Audit fees to comply with required annual federal audit;
5. Liability insurances as necessary
6. Other closely-associated expenses necessary for successful financial administration, oversight, and management of this project, as authorized under this MOA, and approved in writing by the Cabinet.

This project is 100% federally funded. This MOA is effective from May 1, 2018 through January 30, 2021. (Note: All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet, or his authorized designee, has approved the agreement and until the agreement has been submitted to, and approved by, the government contract review committee).

## ACTIVITIES

### OBLIGATIONS OF THE CABINET

The Cabinet shall undertake the following obligations:

1. When requested to do so, the Cabinet shall forward the written report of any archaeological survey to the Kentucky Heritage Council and the Office of State Archaeology, University of Kentucky, for review.
2. The Cabinet shall review and concur, assuming terms and conditions are reasonable, with proposed contracts for preparation of plans and specifications provided by the Contractor.
3. The Cabinet shall provide Request for Payment forms to the Contractor.
4. The Cabinet shall review monthly project financial and status reports received from the Contractor.
5. The Cabinet shall provide a Contractor/Sub-contractor Information form (for AVS checks) and an affidavit form entitled "Campaign Finance Law Compliance" to be included in bid documents.
6. The Cabinet has been awarded Federal grants to be used toward completion of the Project, and the following information pertains to these awards:

**AML Pilot Grant S18AF20020 (up to \$2,250,000.00 provided from this grant):**

Catalog of Federal Domestic Assistance (CFDA) Number: 15.252.

CFDA Title: Abandoned Mine Lands Reclamation (AMLR) Program.

Award/Program Name: FA KY2017 AML Pilot

Federal Awarding Agency: Office of Surface Mining Reclamations and Enforcement, Department of the Interior.

**37th Annual AML Grant (up to \$1,200,000.00 provided from this grant):**

Catalog of Federal Domestic Assistance (CFDA) Number: 15.252.

CFDA Title: Abandoned Mine Lands Reclamation (AMLR) Program.

Award/Program Name: **To Be Determined**

Federal Awarding Agency: Office of Surface Mining Reclamations and Enforcement, Department of the Interior.

### OBLIGATIONS OF THE CONTRACTOR

The Contractor shall undertake the following obligations:

*(All obligations as discussed below that require submittal of documentation to the Cabinet shall be submitted in electronic format. If electronic submittals are not possible, paper submittals are permissible and should be mailed to The Kentucky Division of Abandoned Mine Lands (Attention: Bill Overman – Assistant Director), 300 Sower Blvd, Frankfort, KY 40601. Electronic submittals should be e-mailed to [bill.overman@ky.gov](mailto:bill.overman@ky.gov).)*

1. Preparation of Request for Proposals (RFPs) and Requests for Quotes (RFQs) and solicitation of bids. All RFPs and RFQs must be completed in a manner which is in compliance with Kentucky's Model Procurement Code (KRS 45A).
2. The Contractor shall procure all architectural, design, surveying, title, environmental, and construction contracts in accordance with applicable state and federal laws and regulations. **Specifically, the Contractor agrees to comply with all pertinent provisions of KRS 45A, "Kentucky Model Procurement Code", as amended, for all purchases associated with this project.**
3. All contracts (design, engineering, architectural, surveying, investigation, inspection, etc.) entered into by the Contractor (BSADD), that are associated with this project, must be approved by the Cabinet prior to formal implementation of the contract.
4. The Contractor shall ensure that all necessary system design and contract documents are submitted to the Cabinet's Division of Water for its review and approval in accordance with Chapter 224 of the Kentucky Revised Statutes. The Contractor shall obtain all other required permits or certifications.
5. The Contractor shall ensure that all necessary Property Owner Consents are obtained, prior to construction, so that the project can be constructed as designed.
6. Review, for completeness, accuracy and suitability, any plans, specifications, bid documents, and other related information.
7. Selection of appropriate bidder(s) with concurrence from the Kentucky Division of Abandoned Mine Lands.
8. The Contractor shall submit the names of the low bidder for all contracts and all subcontracts to the Cabinet so that the Cabinet may conduct an Office of Surface Mining Reclamation and Enforcement (OSMRE) Applicant Violator System (AVS) review. The Cabinet may reject the low bidder or any subcontractor if the review identifies the low bidder or subcontractor as a mining violator. The Contractor shall provide the Cabinet with a copy of each contractor/subcontractor's federal ID#, mailing address and phone number.

9. The Contractor shall require each bidder to sign and submit to the Cabinet a Campaign Finance Law Compliance affidavit in accordance with KRS 45A.110 and KRS 45A.115. Failure by the bidder to provide the affidavit shall be grounds for disqualification.
10. Preparation of all contract documents for the selected bidder(s). The Contractor shall, submit a Tabulation of Bids (a chart showing the amount bid by each bidder for each pay item in the contract), as needed for each service, and any Notices of Award to the Cabinet.
11. Review and agreement of contract terms with selected bidder(s) and acquisition of all required contract signatures.
12. Provide to the Cabinet completed design drawings, technical specifications and other construction-related and contract documents in electronic format (or paper format if necessary).
13. Verify that all entities, associated with this project, obtain all required permits or certifications and provide all such documents to the Cabinet in electronic format (or paper format if necessary).
14. Complete project management to verify that all services and materials that are paid for are rendered. This includes taking reasonable steps to verify that all construction-related inspections occur and are documented and that all construction activities are in compliance with local, state, and federal building codes and reporting requirements.
15. Require that all sub-contractors submit all invoices to the Contractor in a timely manner.
16. Project-related work is verified and completed, or product delivered, according to final, or agreed-upon changes to, specifications and plans. Submission of final report to the Cabinet authorizing payment unless deficiencies exist. In the event of a deficiency, the Contractor will submit a list of such deficiencies to necessary sub-contractors and the Cabinet. All deficiencies must be corrected prior to the Cabinet authorizing payment.
17. Attendance at all meetings related to: a) the bidding process, b) contract award process, c) design and construction status, and d) changes to previously-approved design and construction plans or actions.
18. After approval and receipt of payment, the Contractor must disburse funds directly to the vendor.
19. The Contractor shall submit, on a monthly basis, a project status report to the Cabinet. The report shall include a financial report prepared while design and/or

construction activities are ongoing. A "Request for Payment" form with an itemization of eligible project costs attached shall accompany monthly reports. The Contractor's designee shall sign the Request for Payment forms. Payments will be issued based on the amount of work completed, or materials purchased and stored, at the time the request is made. Payments will not be made for work not yet completed, or materials not yet delivered.

20. The Contractor shall comply with the provisions of Section 106 of the National Historical Preservation Act of 1966, as amended (16 U.S.C. & 470); Executive Order No. 11593, which relates to the identification and protection of historic properties; and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. & 469(a)(1) et. seq). In particular, an archaeological survey shall be performed for all areas proposed for disturbance outside the highway rights-of-way, unless the site and access thereto have previously been disturbed. Three copies of the written report resulting from such an archaeological survey shall be submitted to the Cabinet.
21. The Contractor shall establish a special Project Identification Code for all work performed under this AGREEMENT and records shall be maintained of all related work, whether performed by the Contractor, other governmental agencies, or private companies.
22. The Contractor shall establish a separate bank account, **identified with the name of this project (Water System Controls and Raw Water Modifications AML Pilot Project)**, for all federal receipts associated with this project, and shall submit, to the Cabinet, **monthly bank statements and copies of issued checks** to show that all preceding months' payments were made to the correct sub-contractors and for the correct amounts, to the Cabinet.
23. The Contractor, and any of its subcontractors, shall maintain records in accordance with 30 C.F.R. § 886.22, which is incorporated into this AGREEMENT by reference.
24. *The Contractor shall have an audit performed in accordance with the audit requirements found in the Code of Federal Regulations (CFR) Part 200, Subpart F, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards". A copy of the audit shall be provided to the Cabinet within 30 days after completion of the audit, but no later than nine months after the end of the audit period.*
25. The Contractor shall obtain prior Cabinet approval for acquisition of any equipment not specifically included under this MOA. Requests for equipment acquisition authorization shall be submitted to the Cabinet.
26. The Contractor shall require all subcontractors to carry Workers Compensation and Public Liability Insurance, with single limit coverage of at least

\$1,000,000.00. Proof of insurance shall be submitted to the Cabinet upon request.

27. The Contractor shall retain all records relating to the Project until such records are audited by the Cabinet, or for three years after submitting the close-out report to the Federal Office of Surface Mining Reclamation and Enforcement, whichever first occurs. The Contractor shall advise the Cabinet in writing if the Project is to be administered by another governmental entity on its behalf and the project-related records will be maintained at an alternate site.
28. The Contractor shall cooperate fully with the Cabinet in order to facilitate the obligations set out in this AGREEMENT including, but not limited to, allowing the Cabinet to inspect all records pertaining to the project at any time after reasonable notice.

### **MUTUALITY OF OBLIGATIONS**

- The obligations imposed upon the parties to this Agreement are for the benefit of the parties and the timely fulfillment of each and every obligation in accordance with this Agreement is necessary.
- The failure of any party to fulfill any of its obligations under this Agreement shall constitute a breach of this Agreement, and shall entitle the other party to commence appropriate legal or equitable action to enforce its rights under this Agreement, unless the fulfillment of such obligation is waived or modified by the affected party.
- All waivers shall be in writing, signed by the affected party, and a waiver of one breach shall not constitute a waiver of any other breach.
- In the event of a material breach by either party to this Agreement, the other party may terminate this Agreement, without further obligation to the other party. The rights of the parties to this Agreement to pursue remedies for breach of any of the provisions hereof shall survive the termination, expiration, or cancellation of this Agreement.
- Except as otherwise provided to this Agreement, the parties to this Agreement shall be solely responsible for any costs incurred in fulfilling their obligations under this Agreement.

### **ADDITIONAL LONG-TERM OBLIGATIONS OF THE CONTRACTOR AND MCWD:**

Any conveyance, assignment, or transfer of a controlling interest in any of the assets that are provided (constructed/installed) under this MOA, within a period of 5 years from the execution of this MOA, must be requested in writing, by the Contractor (BASDD) and the Martin County Water District (MCWD), and approved by the Cabinet.

## TIMELINE FOR ACTIVITIES

The Contractor shall accomplish the tasks stated in the scope of work or service above by timeline(s) and fiscal year(s) listed as follows:

This MOA is effective from May 1, 2018 through January 30, 2021, or upon the final completion of the Project as specified in this Agreement, whichever first occurs, unless extended in writing by the parties or terminated earlier in accordance with the terms hereof. (Note: All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet, or his authorized designee, has approved the agreement and until the agreement has been submitted to, and approved by, the government contract review committee).

- **\$2,250,000.00 (maximum), from the Pilot Grant S18AF20020, is available starting on May 1, 2018, or a different date as discussed above.**
- **\$1,200,000.00 (maximum), from the 37th Annual AML Grant, is available starting on July 1, 2018, or when this Grant is officially awarded to the Commonwealth.**

## REPORTS

The Contractor shall:

1. Provide a monthly programmatic status report. The report shall cover progress to date, any problems encountered, actions taken, anticipated activity, and work products expected during the next month as outlined in The Division of Abandoned Mine Lands Reporting Template included as Attachment C.
2. Provide a final report detailing activities and deliverables completed during the contract period. The final report is due 30 days after the end of the project.
3. All reports, including the Project Status Report, shall be submitted by mail, or preferably electronically, to The Division of Abandoned Mine Lands (Attn: Bill Overman); 300 Sower Blvd.; Frankfort, KY 40601 or [bill.overman@ky.gov](mailto:bill.overman@ky.gov) within specified timeframes listed above. The Project Status Report shall be submitted in the format included as Attachment C and submitted within specified time frames listed above.

## INVOICES

The Contractor shall:

1. Invoice the Commonwealth on a monthly basis for authorized expenditures by budget line item as listed in Attachment B. The invoice shall indicate:

- Invoice number
- Invoice date
- Dates of service covered
- Current expenditures with each item listed separately
- Cumulative expenditures to date
- Current cost share or match, if identified in budget Attachment B
- Cumulative cost share or match
- Include a copy of the transaction detail report if available and/or receipt
- Backup documentation must be maintained for each invoice, as required by the record retention schedule in Kentucky's Administrative Regulation 725 KAR 1:0612 and/ or CFR 200.333 through 200.337. The backup documentation can either be submitted with the invoice or kept for inspection by the Commonwealth, if or when requested.

Examples of backup documentation may include:

- a. Personnel – payroll spreadsheet showing time worked within the invoice period. Spreadsheet shall contain salary information, name of employee or some identifiable number, percent of time applied to grant, along with the number of hours and fringe benefits per person.
- b. Fringe – include in payroll spreadsheet.
- c. Travel – travel voucher or invoices showing airfare, hotel expenses, etc. Mileage will be paid based on rate established through a travel policy by the recipient. If no rate has been established, the recipient may use the state or federal mileage rate.
- d. Equipment – receipt marked paid (an invoice shall be submitted after equipment is paid for).
- e. Supplies – receipt marked paid (an invoice shall be submitted after supplies are paid for).
- f. Contractual – invoice and documentation that item has been paid (recipient shall verify invoice).



- g. Construction – invoices, receipts marked paid and any other documents that properly verify expenses.
  - h. Indirect costs – will be verified not to exceed the allowable rate established in the MOA.
  - i. Other – invoice and documentation that item has been paid (recipient shall verify invoice).
2. In the event that the Contractor incurs no expenses within a reporting timeframe, the contractor shall submit an invoice for zero (0) dollars or provide a “notice of no expenses,” based on your agency requirements or at least quarterly, unless exempt by federal entity.
  3. All invoices shall indicate the Document ID number, which can be found at the top of the MOA/PSC. The Document ID number can be recognized by the beginning letters “PON2” or “PO2.”
  4. Final Invoice: The final invoice should be clearly marked as “FINAL INVOICE” to indicate that all funds that will be expended, have been expended.

#### **WHERE TO SUBMIT INVOICES**

All invoices shall be submitted via email or mail to:

The Division of Abandoned Mine Lands  
(Attn: Bill Overman, Assistant Director)  
[Bill.overman@ky.gov](mailto:Bill.overman@ky.gov)  
300 Sower Blvd  
Frankfort, KY 40601

In the subject line of the email list:

**“Water System Controls and Raw Water Modifications AML Pilot Project - Invoice Number – start date and end date”** (i.e. time frames) that the invoice pertains to.

#### **ASSURANCES**

The parties shall abide by all terms included in Attachment D.

## **Memorandum of Agreement Terms and Conditions**

Revised February 14, 2018

This Memorandum of Agreement (MOA) is entered into, by and between the Commonwealth of Kentucky, DIVISION OF ABANDONED MINE LANDS ("the Commonwealth") and THE BIG SANDY AREA DEVELOPMENT DISTRICT - BSADD ("the Contractor") and the MARTIN COUNTY WATER DISTRICT ("MCWD") to establish an agreement for funding the WATER SYSTEM CONTROLS AND RAW WATER MODIFICATIONS (PILOT AND AML) PROJECT IN MARTIN COUNTY. The initial MOA is effective from MAY 1, 2018 through JANUARY 30, 2021.

### **Scope of Services:**

The BSADD shall undertake the following activities (as outlined in Attachment A, Scope of Work or Service):

1. Install a secondary raw water intake at Tug Fork River;
2. Upgrade piping, pumps, and controls to support the secondary intake;
3. Install approximately 3,500 feet of water line between Crum Reservoir & treatment plant;
4. Construct a new reservoir intake structure;
5. Install a new system-wide SCADA control system;
6. Rehabilitate one water treatment plant clarifier/filter (only if funding still remains/is available).

### **Notifications**

All notices, requests, demands, waivers, and other communications given as provided in this Agreement shall be in writing and sent to the following:

Sandy Runyon, Executive Director  
Big Sandy Area Development District, Inc.  
110 Resource Court  
Prestonsburg, KY 41653  
606-886-2374  
sandy.runyon@bigsandy.org  
Vendor DUNS number: 609809710

Bob Scott, Director  
Kentucky Division of Abandoned Mine Lands  
300 Building, 300 Sower Boulevard  
Frankfort, KY 40601  
502-782-6761  
502-564-4245 (fax)  
bobf.scott@ky.gov

**Pricing:**

The Energy and Environment Cabinet, Division of Abandoned Mine Lands, shall reimburse BSADD up to \$3,450,000 (\$2,250,000 Pilot/AMLER funds and \$1,200,000 normal AML funds) for services and activities as outlined in Attachment B, Program Budget.

**Cancellation clause:**

Either party may cancel the agreement at any time for cause or may cancel without cause on 30 days' written notice.

**Funding Out Provision:**

The state agency may terminate this agreement if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the agreement. The state agency shall provide the Contractor thirty (30) calendar days written notice of termination of the agreement due to lack of available funding.

**Reduction in Contract Worker Hours:**

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement will be reduced by the amount specified in that document.

**Access to Records:**

The state agency certifies that it is in compliance with the provisions of KRS 45A.695, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030(8) and (10), agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

**Effective Date:**

All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the agreement and until the agreement has been submitted to the government contract review committee. However, in accordance with KRS 45A.700, memoranda of agreement in aggregate amounts of \$50,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

**Violation of tax and employment laws:**

KRS 45A.485 requires the Contractor and all subcontractors performing work under the agreement to reveal to the Commonwealth, prior to the award of a contract, any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively.

To comply with the provisions of KRS 45A.485, the Contractor and all subcontractors performing work under the agreement shall report any such final determination(s) of violation(s) to the Commonwealth by providing the following information regarding the final determination(s): the KRS violated, the date of the final determination, and the state agency which issued the final determination.

KRS 45A.485 also provides that, for the duration of any contract, the Contractor and all subcontractors performing work under the agreement shall be in continuous compliance with the provisions of those statutes, which apply to their operations, and that their failure to reveal a final determination as described above, or failure to comply with the above statutes for the duration of the agreement shall be grounds for the Commonwealth's cancellation of the agreement and their disqualification from eligibility for future state contracts for a period of two (2) years.

[Check box section below need only be included for Contractors that are quasi-governmental entities or 501(c)3 non-profit entities.]

Contractor must check one:

The Contractor has not violated any of the provisions of the above statutes within the previous five (5) year period.

\_\_\_\_\_ The Contractor has violated the provisions of one or more of the above statutes within the previous five (5) year period and has revealed such final determination(s) of violation(s). Attached is a list of such determination(s), which includes the KRS violated, the date of the final determination, and the state agency which issued the final determination.

**Discrimination:**

This section applies only to agreements disbursing federal funds, in whole or part, when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this agreement, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

2. In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

3. The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

4. The Contractor will comply with all provisions of Executive Order No. 11246 of

September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

5. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this agreement or with any of the said rules, regulations or orders, this agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

7. The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**Approvals:**

This contract is subject to the terms and conditions as stated. By affixing signatures below, the parties agree that electronic approvals may serve as electronic signatures. In addition, the parties verify that they are authorized to bind this agreement between parties and that they accept the terms of the agreement.

**AGREED TO BY:**

**Big Sandy Area Development District (BSADD):**

\_\_\_\_\_  
Sandy Runyon, Executive Director

\_\_\_\_\_  
Date

**APPROVED TO FORM AND LEGALITY FOR the BSADD:**

\_\_\_\_\_  
Frank Heaberlin, Attorney

\_\_\_\_\_  
Date

**Martin County Water District (MCWD):**

\_\_\_\_\_  
John Horn, Chairman

\_\_\_\_\_  
Date

**Department for Natural Resources:**

\_\_\_\_\_  
John Small, Commissioner

\_\_\_\_\_  
Date

**Energy and Environment Cabinet:**

\_\_\_\_\_  
Charles G. Snavely, Secretary

\_\_\_\_\_  
Date

**APPROVED AS TO FORM AND LEGALITY FOR Energy and Environment Cabinet:**

\_\_\_\_\_  
John G. Horne II, General Counsel  
Office of Legal Services

\_\_\_\_\_  
Date

## **ATTACHMENT D**

### **ASSURANCES:**

The parties shall comply with:

- The Common Rule, which is incorporated by reference into this AGREEMENT.
- The Anti-Drug Abuse Act (P.L. 100-690), which requires recipients of Federal funds to certify that they have met requirements designed to promote a drug-free workplace.
- Federal statutes relating to nondiscrimination, including but not limited to:
  - Title VII of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, sex, color, national origin, or religion.
  - Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability.
  - The Drug Abuse Prevention, Treatment and Rehabilitation Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse.
  - The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism.
  - §§ 523-527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records.
- Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made.
- Any other nondiscrimination statute(s) that apply to this AGREEMENT.
- Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally-assisted programs.
- The Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limits the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.



- The Copeland Act (40 U.S.C. § 276(c) and 18 U.S.C. § 874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally-assisted construction sub-agreements.
- The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234), which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000.00 or more.
- Comply with environmental quality control measures pursuant to the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order No. 11514.
- Notify violating facilities pursuant to Executive Order No. 11990.
- Protect wetlands pursuant to Executive Order No. 11990.
- Evaluate flood hazards in flood plains in accordance with Executive Order No. 11988.
- Ensure actions comply with state implementation plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.).
- Protect underground sources of drinking water pursuant to the Safe Drinking Water Act of 1974, as amended (P.L. 93-523).
- Comply with the Endangered Species Act of 1973, as amended (P.L. 93-205).
- Comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1270 et seq.).
- The parties shall comply with the Executive Branch Code of Ethics (KRS Chapter 11A) and all state statutes relating to nondiscrimination.

## Cumbo Law

---

**From:** Brian Cumbo  
**Sent:** Thursday, August 16, 2018 10:54 AM  
**To:** Cumbo Law  
**Subject:** Fwd: Draft Martin County MOA

Sent from my iPhone

Begin forwarded message:

**From:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Date:** August 16, 2018 at 10:47:45 AM EDT  
**To:** Brian Cumbo <[brian@cumbolaw.com](mailto:brian@cumbolaw.com)>  
**Cc:** John Horn <[johnglennhorn@gmail.com](mailto:johnglennhorn@gmail.com)>, Jimmy Kerr <[jkerr.myhometownmtg@polarishfc.com](mailto:jkerr.myhometownmtg@polarishfc.com)>, Greg Scott <[greg\\_scott818@yahoo.com](mailto:greg_scott818@yahoo.com)>  
**Subject:** Fwd: Draft Martin County MOA

Brian, see the email below regarding communication to Bob Scott on the AML project.

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

Begin forwarded message:

**From:** "Scott, Bob F (EEC)" <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Date:** March 29, 2018 at 4:51:20 PM EDT  
**To:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Subject:** RE: Draft Martin County MOA

I may have a good clue as I received a phone call during lunch.

---

**From:** Gregory Heitzman [<mailto:Gheitzman@bluewaterky.com>]  
**Sent:** Thursday, March 29, 2018 4:28 PM  
**To:** Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Subject:** Re: Draft Martin County MOA

This, I'll review. Your perspective was appreciated, as we need to stay with original scope for both AML and ARC. I'll give you a call for more details on why they desire a change.

Greg Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073)

On Mar 29, 2018, at 10:05 AM, Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)> wrote:

Please review this MOA document and let me know if there are things that need to be changed. Greg, please review the scope of work in conjunction with Bob Taylor and make sure we have what you intended to fund.

Sorry if I offended any by expressing my opinion in the conference call, perhaps there was a lack of understanding on the suggester that your project change scope in how much has been invested and prepared at this point.

*Bob Scott , PE, PLS  
Director, KY Division of Abandoned Mine Lands  
300 Sower Boulevard, Frankfort, KY 40601  
Office: 502-782-6761  
e-mail: [BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)*

---

**From:** Overman, Charles W (EEC)  
**Sent:** Thursday, March 29, 2018 10:31 AM  
**To:** Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Subject:** RE: Draft Martin County MOA

attached

---

**From:** Scott, Bob F (EEC)  
**Sent:** Thursday, March 29, 2018 10:27 AM  
**To:** Overman, Charles W (EEC)  
**Subject:** Draft Martin County MOA

Please send me the draft Martin County MOA

*Bob Scott , PE, PLS  
Director, KY Division of Abandoned Mine Lands  
300 Sower Boulevard, Frankfort, KY 40601  
Office: 502-782-6761  
e-mail: [BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)*

<1-MOABoilerplateFebruary2018\_3.13.18\_MartinCountyWaterImprovementsPilot.xml>

<2\_AttachmentA\_ScopeOfServiceTemplateRegular\_3.13.18\_MartinCountyWaterImp....xml>

<3\_Attachment  
B\_Budget\_3.13.18\_MartinCountyWaterImprovementsPilot.xml>

## Cumbo Law

---

**From:** Brian Cumbo  
**Sent:** Thursday, August 16, 2018 10:55 AM  
**To:** Cumbo Law  
**Subject:** Fwd: Martin County AML Grant Request  
**Attachments:** MCWD 2017 Water System Improvements Est 2-1-18.pdf; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

**From:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Date:** August 16, 2018 at 10:53:23 AM EDT  
**To:** Brian Cumbo <[brian@cumbolaw.com](mailto:brian@cumbolaw.com)>  
**Cc:** John Horn <[johnglennhorn@gmail.com](mailto:johnglennhorn@gmail.com)>, Jimmy Kerr <[jkerr.myhometownmtg@polarishfc.com](mailto:jkerr.myhometownmtg@polarishfc.com)>, Greg Scott <[greg\\_scott818@yahoo.com](mailto:greg_scott818@yahoo.com)>  
**Subject:** Fwd: Martin County AML Grant Request

Brian, see the email below regarding communication to Bob Scott on the AML project.

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

Begin forwarded message:

**From:** Robert Taylor <[rtaylor@kyengr.com](mailto:rtaylor@kyengr.com)>  
**Date:** February 1, 2018 at 12:56:35 PM EST  
**To:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Subject:** RE: Martin County AML Grant Request

Greg,

Attached is the revised cost estimate.

Thanks



**Robert E. Taylor, Jr.**  
**Kentucky Engineering Group, PLLC**  
P.O. Box 1034  
Versailles, KY 40383  
Office: 859.251.4127  
Office Fax: 859.251.4137  
Cell: 859.608.8927  
e-mail: [rtaylor@kyengr.com](mailto:rtaylor@kyengr.com)

Notice: The information contained in this communication is privileged and confidential. It is intended only for the recipient named above. If you have received this communication in error, please contact the sender at (859) 251-4127 and delete this message from your system.

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**From:** Gregory Heitzman [<mailto:Gheitzman@bluewaterky.com>]  
**Sent:** Thursday, February 1, 2018 12:30 PM  
**To:** Robert Taylor <[rtaylor@kyengr.com](mailto:rtaylor@kyengr.com)>  
**Subject:** Fwd: Martin County AML Grant Request

Bob, Can you update the cost estimate page today (remove the alternate scope)  
? And send me the PDF.

I will get the AML application signed by John Horn

Greg C. Heitzman, PE, MBA  
BlueWater Kentucky  
[502-533-5073](tel:502-533-5073) mobile

Begin forwarded message:

**From:** "Scott, Bob F (EEC)" <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Date:** February 1, 2018 at 9:32:04 AM CST  
**To:** Gregory Heitzman <[Gheitzman@bluewaterky.com](mailto:Gheitzman@bluewaterky.com)>  
**Subject:** RE: Martin County AML Grant Request

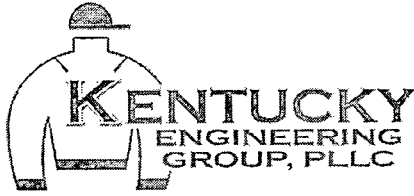
Thanks, I spoke with Secretary Snavelly this morning and he advised of the funding request change. If it is possible to get John Horn's signature and send me a scan of that sheet then we will make this Pilot Project the first out of the gate.

*Bob Scott, PE, PLS  
Director, KY Division of Abandoned Mine Lands  
NAAML President  
300 Sower Boulevard, Frankfort, KY 40601  
Office: 502-782-6761  
e-mail: [BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)*

---

**From:** Gregory Heitzman [<mailto:Gheitzman@bluewaterky.com>]  
**Sent:** Thursday, February 01, 2018 10:06 AM  
**To:** Scott, Bob F (EEC) <[BobF.Scott@ky.gov](mailto:BobF.Scott@ky.gov)>  
**Cc:** [rtaylor@kyengr.com](mailto:rtaylor@kyengr.com)  
**Subject:** Martin County AML Grant Request

Bob, thanks for Meeting my with me on Friday and helping me with refining the project scope to match AML funds mix and availability. I have amended the AML application. Our total scope of work is estimated at \$3.429 million, and I show \$2.229 million in AML Pilot and \$1.2 million in AML Regular funds. I can change the mix if needed. I also update the description to reference the recent water outages in January 2018, and added the new Chair, John Horn to the form. I can get him to sign this if needed, pls let me know.



## Preliminary Project Cost Estimate

Project : Water System Improvements

Date :

Job No. :

Revised : 02/01/18

Est. By: RET

ITEM NO.	SUMMARY OF: Water System Improvements Project	QUANTITY		COST PER UNIT	LS	TOTAL COST
		NO. OF UNITS	UNIT MEAS.			
1	Raw Water Intake Modifications	1	LS		LS	\$ 1,500,000
2	Raw Water Transmission Main Extension to WTP with New Reservoir Intake Structure	1	LS		LS	\$ 1,000,000
3	System Wide SCADA/Telemetry System	1	LS		LS	\$ 250,000
SUBTOTAL AMOUNT						\$ 2,750,000
10% CONST. CONTINGENCY						\$ 275,000
ENGINEERING DESIGN 7.33%						\$ 202,000
RESIDENT INSPECTION 5.53%						152,000
ADDITIONAL ENGINEERING						\$ 50,000
TOTAL ESTIMATED PROJECT COST						\$ 3,429,000

# EXHIBIT #8



RECEIVED

JUN 04 2018



# Commonwealth of Kentucky CONTRACT

<b>DOC ID NUMBER:</b>			
SC	128	1900000095	Version: 1
			Record Date:

**Document Description:** MARTIN CO. WATER SYSTEM CONTROLS & RAW WATER MOD PILOT & AML

**Cited Authority:** KRS45A.690(1)(D)11  
Other Agreements-Not MOA

**Reason for Modification:**

**Issuer Contact:**

**Name:** Beth Wilson  
**Phone:** 502-782-6805  
**E-mail:** SaraBeth.Wilson@ky.gov

<b>Vendor Name:</b> BIG SANDY ADD  110 RESOURCE COURT  PRESTONSBURG KY 41653	<b>Vendor No.:</b> KY0035413 <b>Vendor Contact Name:</b> SANDY RUNYON <b>Phone:</b> 606-886-2374 <b>Email:</b> SANDY.RUNYON@BIGSANDY.ORG
---	---

**Effective From:** 2018-07-01      **Effective To:** 2021-07-30

Line Item	Delivery Date	Quantity	Unit	Description	Unit Price	Contract Amount	Total Price
1		0.00000		MARTIN CO. WATER SYSTEM CONTROLS & RAW WATER MOD PILOT	\$0.000000	\$3,450,000.00	\$3,450,000.00

**Extended Description:**

Water System Controls and Raw Water Modifications AML Pilot Project. The Kentucky Energy and Environment Cabinet, Division of Abandoned Mine Lands ("Cabinet") shall reimburse the Big Sandy Area Development District - BSADD ("the Contractor") up to \$3,450,000.00 for the following activities related to the Water System Controls and Raw Water Modifications AML Pilot Project.

<b>Shipping Information:</b> Division of Abandoned Mine Lands 300 Sower Blvd, 2nd Floor  Frankfort KY 40601	<b>Billing Information:</b> Division of Abandoned Mine Lands 300 Sower Blvd, 2nd Floor  Frankfort KY 40601
---	--

<b>TOTAL CONTRACT AMOUNT:</b>	<b>\$3,450,000.00</b>
-------------------------------	-----------------------

	<b>Document Description</b>	<b>Page 1</b>
1900000005	MARTIN CO. WATER SYSTEM CONTROLS & RAW WATER MOD PILOT & AML	of 21

**Memorandum of Agreement Terms and Conditions**  
**Revised April 25, 2018**

This Memorandum of Agreement (MOA) is entered into, by and between the Commonwealth of Kentucky, THE DIVISION OF ABANDONED MINE LANDS ("the Commonwealth") and Big Sandy Area Development District-BSADD ("the Contractor") to establish an agreement for Water System Controls and Raw Water Modifications AML Pilot Project. The initial MOA is effective from July 1, 2018 through January 30, 2021.

**Scope of Services:**

The BSADD shall undertake activities Water System Controls and Raw Water Modification as outlined in Attachment A, Scope of Work or Service.

**Pricing:**

The Energy and Environment Cabinet, THE DIVISION OF ABANDONED MINE LANDS, shall reimburse BSADD up to \$3,450,000 for services and activities as outlined in Attachment B, Program Budget.

	Document Description	Page 2
1900000095	MARTIN CO. WATER SYSTEM CONTROLS & RAW WATER MOO PILOT & AML	of 21

**MOA/PSC Exception Standard Terms and Conditions  
May 22, 2018**

Whereas, the first party, the state agency, has concluded that either state personnel are not available to perform said function, or it would not be feasible to utilize state personnel to perform said function; and Whereas, the second party, the Contractor, is available and qualified to perform such function; and Whereas, for the abovementioned reasons, the state agency desires to avail itself of the services of the second party;

**NOW THEREFORE, the following terms and conditions are applicable to this contract:**

**1.00 Effective Date:**

This contract is not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the contract and until the contract has been submitted to the Legislative Research Commission, Government Contract Review Committee ("LRC"). However, in accordance with KRS 45A.700, contracts in aggregate amounts of \$10,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

**2.00 Renewals:**

This section does not apply to governmental or quasi-governmental entities. Upon expiration of the initial term, the contract may be renewed in accordance with the terms and conditions in the original solicitation. Renewal shall be subject to prior approval from the Secretary of the Finance and Administration Cabinet or his authorized designee and the LRC Government Contract Review Committee in accordance with KRS 45A.695 and KRS 45A.705, and contingent upon available funding.

**3.00 LRC Policies:**

This section does not apply to governmental or quasi-governmental entities. Pursuant to KRS 45A.725, LRC has established policies which govern rates payable for certain professional services. These are located on the LRC webpage (<http://www.lrc.ky.gov/Statcomm/Contracts/homepage.htm>) and would impact any contract established under KRS 45A.690 et seq., where applicable.

**4.00 Choice of Law and Forum:**

This section does not apply to governmental or quasi-governmental entities. This contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. Any action brought against the Commonwealth on the contract, including but not limited to actions either for breach of contract or for enforcement of the contract, shall be brought in Franklin Circuit Court, Franklin County, Kentucky in accordance with KRS 45A.245.

**5.00 Cancellation:**

The state agency shall have the right to terminate and cancel this contract at any time not to exceed thirty (30) days' written notice served on the Contractor by registered or certified mail.

**6.00 Funding Out Provision:**

The state agency may terminate this contract if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the contract. The state agency shall provide the Contractor thirty (30) calendar days' written notice of termination of the contract due to lack of available funding.

**7.00 Reduction in Contract Worker Hours:**

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1900000095	MARTIN CO. WATER SYSTEM CONTROLS & RAW WATER MOD PILOT &AML	of 21

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement will be reduced by the amount specified in that document. If the contract funding is reduced, then the scope of work related to the contract may also be reduced commensurate with the reduction in funding. This reduction of the scope shall be agreeable to both parties and shall not be considered a breach of contract.

**8.00 Authorized to do Business in Kentucky:**

**This section does not apply to governmental or quasi-governmental entities.**

The Contractor affirms that it is properly authorized under the laws of the Commonwealth of Kentucky to conduct business in this state and will remain in good standing to do business in the Commonwealth of Kentucky for the duration of any contract awarded.

The Contractor shall maintain certification of authority to conduct business in the Commonwealth of Kentucky during the term of this contract. Such registration is obtained from the Secretary of State, who will also provide the certification thereof.

**Registration with the Secretary of State by a Foreign Entity:**

Pursuant to KRS 45A.480(1)(b), an agency, department, office, or political subdivision of the Commonwealth of Kentucky shall not award a state contract to a person that is a foreign entity required by KRS 14A.9-010 to obtain a certificate of authority to transact business in the Commonwealth ("certificate") from the Secretary of State under KRS 14A.9-030 unless the person produces the certificate within fourteen (14) days of the bid or proposal opening. Therefore, foreign entities should submit a copy of their certificate with their solicitation response. If the foreign entity is not required to obtain a certificate as provided in KRS 14A.9-010, the foreign entity should identify the applicable exception in its solicitation response. Foreign entity is defined within KRS 14A.1-070.

For all foreign entities required to obtain a certificate of authority to transact business in the Commonwealth, if a copy of the certificate is not received by the contracting agency within the time frame identified above, the foreign entity's solicitation response shall be deemed non-responsive or the awarded contract shall be cancelled.

Businesses can register with the Secretary of State at <https://secure.kentucky.gov/sos/ftb/welcome.aspx>.

**9.00 Invoices for fees:**

**This section does not apply to governmental or quasi-governmental entities.**

The Contractor shall maintain supporting documents to substantiate invoices and shall furnish same if required by state government. The invoice must conform to the method described in Section V of this contract.

Pursuant to KRS 45A.695, no payment shall be made on any personal service contract unless the individual, firm, partnership, or corporation awarded the personal service contract submits its invoice for payment on a form established by the committee.

\*Invoice form is available on the Legislative Research Commission, Government Contract Review Committee website: <http://www.lrc.ky.gov/Statcomm/Contracts/homepage.htm>

**10.00 Travel expenses, if authorized:**

**This section does not apply to governmental or quasi-governmental entities.**

The Contractor shall be paid for no travel expenses unless and except as specifically authorized by the specifications of this contract or authorized in advance and in writing by the Commonwealth. Either original or certified copies of receipts must be submitted for airline tickets, hotel bills, restaurant charges, rental car charges, and any other miscellaneous expenses.

**11.00 Other expenses, if authorized herein:**

**This section does not apply to governmental or quasi-governmental entities.**

	<b>Document Description</b>	<b>Page 4</b>
1900000095	MARTIN CO. WATER SYSTEM CONTROLS & RAW WATER MOD PILOT &AML	of 21

The Contractor shall be reimbursed for no other expenses of any kind, unless and except as specifically authorized within the specifications of this contract or authorized in advance and in writing by the Commonwealth.

If the reimbursement of such expenses is authorized, the reimbursement shall be only on an out-of-pocket basis. Request for payment of same shall be processed upon receipt from the Contractor of valid, itemized statements submitted periodically for payment at the time any fees are due. The Contractor shall maintain supporting documents that substantiate every claim for expenses and shall furnish same if requested by the Commonwealth.

**12.00 Purchasing and specifications:**

**This section does not apply to governmental or quasi-governmental entities.**

The Contractor certifies that he/she will not attempt in any manner to influence any specifications to be restrictive in any way or respect nor will he/she attempt in any way to influence any purchasing of services, commodities or equipment by the Commonwealth of Kentucky. For the purpose of this paragraph and the following paragraph that pertains to conflict-of-interest laws and principles, "he/she" is construed to mean "they". If more than one person is involved and if a firm, partnership, corporation, or other organization is involved, then "he/she" is construed to mean any person with an interest therein.

**13.00 Conflict-of-interest laws and principles:**

**This section does not apply to governmental or quasi-governmental entities.**

The Contractor certifies that he/she is legally entitled to enter into this contract with the Commonwealth of Kentucky, and by holding and performing this contract, he/she will not be violating either any conflict of interest statute (KRS 45A.330-45A.340, 45A.990, 164.390), or KRS 11A.040 of the executive branch code of ethics, relating to the employment of former public servants.

**14.00 Campaign finance:**

**This section does not apply to governmental or quasi-governmental entities.**

The Contractor certifies that neither he/she nor any member of his/her immediate family having an interest of 10% or more in any business entity involved in the performance of this contract, has contributed more than the amount specified in KRS 121.058(2), to the campaign of the gubernatorial candidate elected at the election last preceding the date of this contract. The Contractor further swears under the penalty of perjury, as provided by KRS 523.020, that neither he/she nor the company which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth, and that the award of a contract to him/her or the company which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.

**15.00 Access to Records:**

The state agency certifies that it is in compliance with the provisions of KRS 45A.695, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030, agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

**16.00 Social security: (check one)**

**This section does not apply to governmental or quasi-governmental entities.**

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The parties are cognizant that the state is not liable for social security contributions, pursuant to 42 U.S. Code, section 418, relative to the compensation of the second party for this contract.

The parties are cognizant that the state is liable for social security contributions, pursuant to 42 U.S. Code, section 418, relative to the compensation of the second party for this contract.

**18.00 Violation of tax and employment laws:**

KRS 45A.485 requires the Contractor and all subcontractors performing work under the contract to reveal to the Commonwealth, prior to the award of a contract, any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively.

To comply with the provisions of KRS 45A.485, the Contractor and all subcontractors performing work under the contract shall report any such final determination(s) of violation(s) to the Commonwealth by providing the following information regarding the final determination(s): the KRS violated, the date of the final determination, and the state agency which issued the final determination.

KRS 45A.485 also provides that, for the duration of any contract, the Contractor and all subcontractors performing work under the contract shall be in continuous compliance with the provisions of those statutes, which apply to their operations, and that their failure to reveal a final determination, as described above, or failure to comply with the above statutes for the duration of the contract, shall be grounds for the Commonwealth's cancellation of the contract and their disqualification from eligibility for future state contracts for a period of two (2) years.

**Contractor must check one:**

The Contractor has not violated any of the provisions of the above statutes within the previous five (5) year period.

The Contractor has violated the provisions of one or more of the above statutes within the previous five (5) year period and has revealed such final determination(s) of violation(s). Attached is a list of such determination(s), which includes the KRS violated, the date of the final determination, and the state agency which issued the final determination.

**17.00 Discrimination:**

This section applies only to contracts disbursing federal funds, in whole or part, when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this contract, the Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.



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In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding a notice advising the said labor union or workers' representative of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions that may be imposed and remedies invoked as provided in or as otherwise provided by law.

The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

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## **Attachment A**

### **Scope of Work or Service**

#### **Big Sandy Area Development District (BSADD) and the Martin County Water District**

for the

#### **Water System Controls and Raw Water Modifications AML Pilot Project**

The Kentucky Energy and Environment Cabinet, Division of Abandoned Mine Lands ("Cabinet") shall reimburse the Big Sandy Area Development District - BSADD ("the Contractor") up to \$3,450,000.00 for the following activities related to the Water System Controls and Raw Water Modifications AML Pilot Project.

#### **SCOPE OF WORK OR SERVICE**

The Water System Controls and Raw Water Modifications AML PILOT Project is being proposed for funding as part of the Department of Interior's (DOI) Office of Surface Mining Reclamation and Enforcement (OSMRE) Abandoned Mine Land Reclamation FY 2017 \$25,000,000.00 (Twenty Five Million) Economic Development Pilot Program (AML Pilot). This project was chosen by Kentucky because it was deemed to offer potential significant benefits for coal field communities via a positive impact towards AML cleanup and economic and community development.

Installation of a secondary raw water intake in the Tug Fork River to provide redundancy.

Piping, pumps, and controls will be upgraded to provide for this second intake.

Extend the existing raw water transmission main pipe from the Crum Reservoir to the existing water treatment plant (approximately 3,500' of 16" ductile iron pipe).

Construct a new reservoir intake structure.

Install a new system-wide telemetry SCADA control system to allow operators to monitor water tanks, pump stations, and control valves within the system from the water treatment plant location.

Rehabilitation of one of three water treatment plant clarifier/filters (only if funds are available). This rehabilitation work will allow the water treatment plant to improve



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water quality and to maintain water capacity when servicing the other clarifier/filter units. The water treatment plant is located on the Inez 7.5' United States Geological Survey (USGS) quadrangle at Latitude 37° 52' 27" and Longitude -82° 31' 19".

Other closely associated work necessary for the development of this project, as authorized under this MOA, and approved in writing by the Cabinet.

This project is 100% federally funded. This MOA is effective from July 1, 2018 through January 30, 2021. (Note: All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet, or his authorized designee, has approved the agreement and until the agreement has been submitted to, and approved by, the government contract review committee).

#### ACTIVITIES

The BSADD shall implement the following:

*(All obligations as discussed below that require submittal of documentation to the Cabinet shall be submitted in electronic format. If electronic submittals are not possible, paper submittals are permissible and should be mailed to The Kentucky Division of Abandoned Mine Lands (Attention: Bill Overman – Assistant Director), 300 Sower Blvd, Frankfort, KY 40601. Electronic submittals should be e-mailed to [bill.overman@ky.gov](mailto:bill.overman@ky.gov).)*

Preparation of Request for Proposals (RFPs) and Requests for Quotes (RFQs) and solicitation of bids. All RFPs and RFQs must be completed in a manner which is in compliance with Kentucky's Model Procurement Code (KRS 45A).

The Contractor shall procure all architectural, design, surveying, title, environmental, and construction contracts in accordance with applicable state and federal laws and regulations. Specifically, the Contractor agrees to comply with all pertinent provisions of KRS 45A, "Kentucky Model Procurement Code", as amended, for all purchases associated with this project.

All contracts (design, engineering, architectural, surveying, investigation, inspection, etc.) entered into by the Contractor (BSADD), that are associated with this project, must be approved by the Cabinet prior to formal implementation of the contract.

The Contractor shall ensure that all necessary system design and contract documents are submitted to the Cabinet's Division of Water for its review and approval in accordance with Chapter 224 of the Kentucky Revised Statutes. The Contractor shall obtain all other required permits or certifications.

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The Contractor shall ensure that all necessary Property Owner Consents are obtained, prior to construction, so that the project can be constructed as designed.

Review, for completeness, accuracy and suitability, any plans, specifications, bid documents, and other related information.

Selection of appropriate bidder(s) with concurrence from the Kentucky Division of Abandoned Mine Lands.

The Contractor shall submit the names of the low bidder for all contracts and all subcontracts to the Cabinet so that the Cabinet may conduct an Office of Surface Mining Reclamation and Enforcement (OSMRE) Applicant Violator System (AVS) review. The Cabinet may reject the low bidder or any subcontractor if the review identifies the low bidder or subcontractor as a mining violator. The Contractor shall provide the Cabinet with a copy of each contractor/subcontractor's federal ID#, mailing address and phone number.

The Contractor shall require each bidder to sign and submit to the Cabinet a Campaign Finance Law Compliance affidavit in accordance with KRS 45A.110 and KRS 45A.115. Failure by the bidder to provide the affidavit shall be grounds for disqualification.

Preparation of all contract documents for the selected bidder(s). The Contractor shall submit a Tabulation of Bids (a chart showing the amount bid by each bidder for each pay item in the contract), as needed for each service, and any Notices of Award to the Cabinet.

Review and agreement of contract terms with selected bidder(s) and acquisition of all required contract signatures.

Provide to the Cabinet completed design drawings, technical specifications and other construction-related and contract documents in electronic format (or paper format if necessary).

Verify that all entities, associated with this project, obtain all required permits or certifications and provide all such documents to the Cabinet in electronic format (or paper format if necessary).

Complete project management to verify that all services and materials that are paid for are rendered. This includes taking reasonable steps to verify that all construction-related inspections occur and are documented and that all construction activities are in compliance with local, state, and federal building codes and reporting requirements.

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**Require that all sub-contractors submit all invoices to the Contractor in a timely manner.**

**Project-related work is verified and completed, or product delivered, according to final, or agreed-upon changes to, specifications and plans. Submission of final report to the Cabinet authorizing payment unless deficiencies exist. In the event of a deficiency, the Contractor will submit a list of such deficiencies to necessary sub-contractors and the Cabinet. All deficiencies must be corrected prior to the Cabinet authorizing payment.**

**Attendance at all meetings related to: a) the bidding process, b) contract award process, c) design and construction status, and d) changes to previously-approved design and construction plans or actions.**

**After approval and receipt of payment, the Contractor must disburse funds directly to the vendor.**

**The Contractor shall submit, on a monthly basis, a project status report to the Cabinet. The report shall include a financial report prepared while design and/or construction activities are ongoing. A "Request for Payment" form with an itemization of eligible project costs attached shall accompany monthly reports. The Contractor's designee shall sign the Request for Payment forms. Payments will be issued based on the amount of work completed, or materials purchased and stored, at the time the request is made. Payments will not be made for work not yet completed, or materials not yet delivered.**

**The Contractor shall comply with the provisions of Section 106 of the National Historical Preservation Act of 1966, as amended (16 U.S.C. & 470); Executive Order No. 11593, which relates to the identification and protection of historic properties; and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. & 469(a)(1) et. seq). In particular, an archaeological survey shall be performed for all areas proposed for disturbance outside the highway rights-of-way, unless the site and access thereto have previously been disturbed. Three copies of the written report resulting from such an archaeological survey shall be submitted to the Cabinet.**

**The Contractor shall establish a special Project Identification Code for all work performed under this AGREEMENT and records shall be maintained of all related work, whether performed by the Contractor, other governmental agencies, or private companies.**

**The Contractor shall establish a separate bank account, identified with the name of this project (Water System Controls and Raw Water Modifications AML Pilot Project), for all federal receipts associated with this project, and shall submit, to the Cabinet, monthly**

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bank statements and copies of issued checks to show that all preceding months' payments were made to the correct sub-contractors and for the correct amounts, to the Cabinet.

The Contractor, and any of its subcontractors, shall maintain records in accordance with 30 C.F.R. § 886.22, which is incorporated into this AGREEMENT by reference.

*The Contractor shall have an audit performed in accordance with the audit requirements found in the Code of Federal Regulations (CFR) Part 200, Subpart F, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards". A copy of the audit shall be provided to the Cabinet within 30 days after completion of the audit, but no later than nine months after the end of the audit period.*

The Contractor shall obtain prior Cabinet approval for acquisition of any equipment not specifically included under this MOA. Requests for equipment acquisition authorization shall be submitted to the Cabinet.

The Contractor shall require all subcontractors to carry Workers Compensation and Public Liability Insurance, with single limit coverage of at least \$1,000,000.00. Proof of insurance shall be submitted to the Cabinet upon request.

The Contractor shall retain all records relating to the Project until such records are audited by the Cabinet, or for three years after submitting the close-out report to the Federal Office of Surface Mining Reclamation and Enforcement, whichever first occurs. The Contractor shall advise the Cabinet in writing if the Project is to be administered by another governmental entity on its behalf and the project-related records will be maintained at an alternate site.

The Contractor shall cooperate fully with the Cabinet in order to facilitate the obligations set out in this AGREEMENT including, but not limited to, allowing the Cabinet to inspect all records pertaining to the project at any time after reasonable notice.

#### **TIMELINE FOR ACTIVITIES**

The BSADD shall accomplish the tasks stated in the scope of work or service above by timeline(s) and fiscal year(s) listed as follows:

This MOA is effective from July 1, 2018 through January 30, 2021.

#### **REPORTS**

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**The BSADD shall:**

**Provide a monthly programmatic status report. The report shall cover progress to date, any problems encountered, actions taken, anticipated activity, and work products expected during the next month as outlined in The Division of Abandoned Mine Lands Reporting Template included as Attachment C.**

**Provide a final report detailing activities and deliverables completed during the contract period. The final report is due 30 days after the end of the project.**

**All reports, including the Project Status Report, shall be submitted by mail, or preferably electronically, to The Division of Abandoned Mine Lands (Attn: Bill Overman); 300 Sower Blvd.; Frankfort, KY 40601 or [bill.overman@ky.gov](mailto:bill.overman@ky.gov) within specified timeframes listed above. The Project Status Report shall be submitted in the format included as Attachment C and submitted within specified time frames listed above.**

#### **INVOICES**

**The Contractor shall:**

**Invoice the Commonwealth on a monthly basis for authorized expenditures by budget line item as listed in Attachment B. The invoice shall indicate:**

- Invoice number
- Invoice date
- Dates of service covered
- Current expenditures with each item listed separately
- Cumulative expenditures to date
- Current cost share or match, if identified in budget Attachment B
- Cumulative cost share or match
- Include a copy of the transaction detail report if available and/or receipt

**Backup documentation must be maintained for each invoice, as required by the record retention schedule in Kentucky's Administrative Regulation 725 KAR 1:0612 and/ or CFR 200.333 through 200.337. The backup documentation can either be submitted with the invoice or kept for inspection by the Commonwealth, if or when requested.**

**Examples of backup documentation may include:**

- Personnel -- payroll spreadsheet showing time worked within the invoice period. Spreadsheet shall contain salary information, name of employee or some identifiable number, percent of time applied to grant, along with the number of hours and fringe

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benefits per person.

- Fringe – include in payroll spreadsheet.
- Travel – travel voucher or invoices showing airfare, hotel expenses, etc. Mileage will be paid based on rate established through a travel policy by the recipient. If no rate has been established, the recipient may use the state or federal mileage rate.
- Equipment – receipt marked paid (an invoice shall be submitted after equipment is paid for).
- Supplies – receipt marked paid (an invoice shall be submitted after supplies are paid for).
- Contractual – invoice and documentation that item has been paid (recipient shall verify invoice).
- Construction – invoices, receipts marked paid and any other documents that properly verify expenses.
- Indirect costs – will be verified not to exceed the allowable rate established in the MOA.
- Other – invoice and documentation that item has been paid (recipient shall verify invoice).

In the event that the Contractor incurs no expenses within a reporting timeframe, the contractor shall submit an invoice for zero (0) dollars or provide a "notice of no expenses," based on your agency requirements or at least quarterly, unless exempt by federal entity.

All invoices shall indicate the Document ID number, which can be found at the top of the MOA/PSC. The Document ID number can be recognized by the beginning letters "PON2" or "PO2."

Final Invoice: The final invoice should be clearly marked as "FINAL INVOICE" to indicate that all funds that will be expended, have been expended.

#### **WHERE TO SUBMIT INVOICES**

All invoices shall be submitted via email or mail to:

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**The Division of Abandoned Mine Lands**  
**(Attn: Bill Overman, Assistant Director)**  
**[Bill.Overman@ky.gov](mailto:Bill.Overman@ky.gov)**  
**300 Sower Blvd**  
**Frankfort, KY 40601**

**In the subject line of the email list:**

**Water System Controls and Raw Water Modifications AML Pilot Project - Invoice Number and start date and end date\* (i.e. time frames) that the Invoice pertains to.**

### **MUTUALITY OF OBLIGATIONS**

**The obligations imposed upon the parties to this Agreement are for the benefit of the parties and the timely fulfillment of each and every obligation in accordance with this Agreement is necessary.**

**The failure of any party to fulfill any of its obligations under this Agreement shall constitute a breach of this Agreement, and shall entitle the other party to commence appropriate legal or equitable action to enforce its rights under this Agreement, unless the fulfillment of such obligation is waived or modified by the affected party.**

**All waivers shall be in writing, signed by the affected party, and a waiver of one breach shall not constitute a waiver of any other breach.**

**In the event of a material breach by either party to this Agreement, the other party may terminate this Agreement, without further obligation to the other party. The rights of the parties to this Agreement to pursue remedies for breach of any of the provisions hereof shall survive the termination, expiration, or cancellation of this Agreement.**

**Except as otherwise provided to this Agreement, the parties to this Agreement shall be solely responsible for any costs incurred in fulfilling their obligations under this Agreement.**

### **ADDITIONAL LONG-TERM OBLIGATIONS OF THE CONTRACTOR AND MCWD:**

**Authorization of any proposed conveyance, assignment, or transfer of a controlling interest in any of the assets that are provided, constructed, installed or financed pursuant to this MOA, within a period of 5 years from the execution of this MOA, must be requested in advance in writing by the Contractor (BSADD) and the Martin County Water District (MCWD) to the Cabinet which the Cabinet may approve or deny in the Cabinet's sole and absolute discretion. This provision shall survive the termination or**



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expiration of this MOA.

**ASSURANCES**

The parties shall abide by all terms included in Attachment D.



**Attachment B**

**Water System Controls and Raw Water Modifications AML Pilot Project**

<b>Categories</b>	<b>Division of Abandoned Mine Lands</b>	<b>Cost Share /In-kind Match</b>	<b>Total</b>
Design	\$202,000.00	\$0.00	\$202,000.00
Construction/Equipment/Supplies	\$3,100,000.00	\$0.00	\$3,100,000.00
Inspection	\$123,000.00	\$0.00	\$123,000.00
Project Management	\$25,000.00	\$0.00	\$25,000.00
Other	\$0.00	\$0.00	\$0.00
<b>Total Direct Charges</b>	<b>\$3,450,000.00</b>	<b>\$0.00</b>	<b>\$3,450,000.00</b>
Indirect Charges (up to 10% of Contractor's Total Direct Charges) **	\$0.00	\$0.00	\$0.00
Contractual	\$0.00	\$0.00	\$0.00
<b>Total</b>	<b>\$3,450,000.00</b>	<b>\$0.00</b>	<b>\$3,450,000.00</b>
Program Income	\$0.00	\$0.00	\$0.00

A detailed budget template provided by the Big Sandy Area Development District - BSADD, or their contracted engineering firm, shall be completed and submitted to the Division of Abandoned Mine Lands (Attn: Bill Overman) prior to the start of the project and before the start of each fiscal year.

**\*\* RECIPIENT INDIRECT:**

If the recipient is receiving state funds the recipient may not charge indirect costs in excess of ten (10) percent of total direct costs. An indirect rate shall not be charged on contractual expenditures. Indirect charges exceeding the ten (10) percent shall be considered as cost share provided by the recipient.

If the recipient is receiving federal funds the recipient shall use the indirect rate corresponding with the agreement the recipient has with the federal entity or ten (10) percent. The recipient shall provide a copy of the indirect agreement prior to the federal funds being awarded.

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## **Attachment C**

### **Division of Abandoned Mine Lands AML Water Supply Project Status Report Template**

**The reporting template should be submitted as required by the scope of work in Attachment A.**

---

**Grant Recipient Name:**

**Project Name:**

**Principal Investigator/Project Manager:**

**Date Submitted:**

**Reporting Period: (month & year)**

---

**Accomplishments, publicity, news:**

*(Provide an update on project activities, any publicity on the project, including links to articles)*

---

**Performance outcome data/metrics:**

*(Provide updates on specific activity targets, project timelines and/or metrics from the grant agreement)*

---

**Problems, issues, variances from plan:**

*(Provide updates on any problems with project activities, timelines, any variances from the original work plan)*

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## **ATTACHMENT D**

### **ASSURANCES:**

The parties shall comply with:

- The Common Rule, which is incorporated by reference into this AGREEMENT.
- The Anti-Drug Abuse Act (P.L. 100-690), which requires recipients of Federal funds to certify that they have met requirements designed to promote a drug-free workplace.
- Federal statutes relating to nondiscrimination, including but not limited to:
  - Title VII of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, sex, color, national origin, or religion.
  - Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability.
  - The Drug Abuse Prevention, Treatment and Rehabilitation Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse.
  - The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism.
  - §§ 523-527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records.
  - Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made.
  - Any other nondiscrimination statute(s) that apply to this AGREEMENT.
- Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally-assisted programs.
- The Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limits the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.
- The Copeland Act (40 U.S.C. § 276(c) and 18 U.S.C. § 874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally-assisted construction sub-agreements.
- The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234), which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000.00 or more.

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- Comply with environmental quality control measures pursuant to the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order No. 11514.
- Notify violating facilities pursuant to Executive Order No. 11990.
- Protect wetlands pursuant to Executive Order No. 11990.
- Evaluate flood hazards in flood plains in accordance with Executive Order No. 11988.
- Ensure actions comply with state implementation plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. && 7401 et seq.).
- Protect underground sources of drinking water pursuant to the Safe Drinking Water Act of 1974, as amended (P.L. 93-523).
- Comply with the Endangered Species Act of 1973, as amended (P.L. 93-205).
- Comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. && 1270 et seq).
- The parties shall comply with the Executive Branch Code of Ethics (KRS Chapter 11A) and all state statutes relating to nondiscrimination.

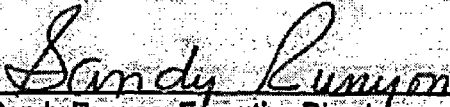
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**Approvals:**

This contract is subject to the terms and conditions stated herein. By affixing signatures below, the parties verify that they are authorized to enter into this contract and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures, and (ii) this contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single contract.

**AGREED TO BY:**

**Big Sandy Area Development District (BSADD):**

  
 Sandy Runyon, Executive Director

5/30/2018  
 Date

**THE DIVISION OF ABANDONED MINE LANDS:**

  
 John Small Commissioner

6/13/18  
 Date

**ENERGY AND ENVIRONMENT CABINET:**

  
 Charles G. Snavely, Secretary

6/14/18  
 Date

**APPROVED AS TO FORM AND LEGALITY FOR ENERGY AND ENVIRONMENT CABINET:**

  
 John G. Horne II, Office of General Counsel

6/18/18  
 Date

## **GRANT INFORMATION AND IDENTIFICATION**

Implementation Agreement Number: 17P-050

ARC Contract Number: KY-19063-302-17

Grantee: Martin County Water District

Project Name: Martin County Water System Improvements

Federal Agency: Appalachian Regional Commission

Basic Federal Agency: Kentucky Department for Local Government

CFDA Title: Appalachian Regional Development

CFDA Number: 23.002

Award Year: 2017

**IMPLEMENTATION/FISCAL AGENT AGREEMENT**

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between Martin County Water District, Kentucky, hereinafter referred to as the Recipient and the Commonwealth of Kentucky, Department for Local Government (DLG), hereinafter referred to as the Commonwealth.

The purpose of this Agreement is to set forth the terms and conditions under which the Commonwealth agrees to distribute the sum of \$1,200,000 in federal funds to the Recipient. The Appalachian Regional Commissioner (ARC) distributes construction grants funds for local projects. The Appalachian Regional Development Act of 1965 (40 U.S.C. §§ 14101-14526, as amended) (the "Act"), authorizes other agencies to assist ARC with the administration of construction grants by becoming a Registered State Basic Agency ("RSBA") and serving as a fiscal agent (the "Fiscal Agent"). DLG, as the Fiscal Agent, will administer the construction grant pursuant to a Program Design Proposal, dated December 16, 2016 and a Registered State Basic Agency Memorandum of Understanding by and between ARC and DLG, dated December 16, 2016 (the "MOU"). The MOU is subject to the ARC Manual For State Basic Agency Grant Administration, dated March 2015 (the "ARC Manual"). ARC has agreed to provide grant funding to Recipient pursuant to a grant agreement, dated September 15, 2017. This Agreement is subject to and shall be governed in accordance with the provisions of the Act, the MOU, the Program Design, the ARC Manual, and the ARC Grant Agreement. As the Fiscal Agent, DLG will distribute and administer ARC grant funds to Recipient to effectuate the project set forth below.

Recipient desires to use the funds for the Martin County Water System Improvements, which shall be completed by September 29, 2020.

**IMPLEMENTATION/FISCAL AGENT AGREEMENT**

**1. GENERAL PROVISIONS**

**A. Contents of Agreement**

This Implementation/Fiscal Agent Agreement, hereinafter called the "Agreement," shall consist of the following documents which are incorporated by reference as if fully set out herein: (1) the ARC Grant Agreement dated 9/15/17 and all exhibits to which that Grant Agreement refers; (2) the Application submitted to ARC on 10/13/2016 and assigned Application ID: KY-19063; (3) the Memorandum of Understanding (MOU) between DLG and ARC, executed on December 16, 2016; (4) all State and Federal Law requirements to which the Application and this Agreement refer or apply; (5) the Kentucky Community Development Block Grant Handbook currently in effect, plus any advisories; (6) any applicable administrative regulations; and (7) any amendments or modifications to any of the above referenced requirements.

**B. General Definitions**

Unless specifically provided otherwise or the context otherwise requires, when used in this Agreement:

(1) "Act" means the Housing and Community Development Act of 1974, Pub. L. No. 93-383, as amended and/or Section 302 of the Appalachian Regional Development Act of 1965 (ARDA), as amended, (40 USC 14321).

(2) "Application" means the ARC Application, and such other submittals, as are specified in Exhibit A of this Agreement.

(3) "ARC" means the Appalachian Regional Commission.

(4) "CDBG" means a grant guided by Title I of the Housing and Community Development Act of 1974, as amended and those regulations set forth in 24 CFR Part 570, Subpart I, as may be amended from time to time and all other applicable Federal and State regulations and laws and assurances signed by Recipient at the time the Recipient's Application was submitted.

(5) "Commonwealth" when not used to designate the territory of the Commonwealth of Kentucky shall mean the Department for Local Government, its Commissioner, or any other person to whom the Commissioner has delegated authority to act with respect to matters covered by this Agreement.

(6) "Default" means any default set forth in Section 6-A to this Agreement.



(7) "Eligible Costs" means costs for the activities specified in Exhibit B of this Agreement for which grant funds are budgeted as specified in Exhibit C of this Agreement, provided that such costs (i) are incurred in connection with any activity which is eligible under Section 105A of Title I of the Act, and (ii) conform to the requirements of 2 CFR 200 (Cost Principles Applicable to Grants and Contracts with State and Local Government), as may be amended from time to time. For purposes of determining the conformity of costs to said Attachment B, all costs set forth in Section C thereof may be considered eligible without prior approval of the Commonwealth.

(8) "Environmental Conditions" means the condition imposed by law, particularly 24 CFR Part 58, and the provisions of the Agreement which prohibit or limit the commitment and use of grant funds until certain procedural requirements have been completed.

(9) "Environmental Requirements" means the requirements described in 24 CFR Part 58.

(10) "Environmental Studies" means all eligible activities necessary to produce an "environmental document", as that term is defined at Section 1508.10 of 40 CFR Part 1508, or to comply with the requirements of 24 CFR Part 58.

(11) "Grant Funds" means those ARC funds to be provided by the Commonwealth to Recipient pursuant to the terms of this Agreement, as specified in Exhibit A of this Agreement.

(12) "HUD" means the United States Department of Housing and Urban Development.

(13) "Program Income" means the CDBG portion of: (i) any income earned by Recipient, or an agent or agency of Recipient, from the disposition of real or personal property acquired in whole or in part with grant funds; (ii) the repayment proceeds (including principal and interest) of any loan made in whole or part with grant funds; (iii) any other revenues defined as program income in 24 CFR Part 570, Subpart J. The "ARC portion" means an amount computed by applying the percentage of participation of ARC funds (i) in the acquisition cost of the property to the total income from the disposition of such property, (ii) in the amount of the loan to the total repayment proceeds of such loan, or, (iii) in the cost of an activity to the total income from such activity.

(14) "Project" means the activities described in the Application and in Exhibits B and C of this Agreement, which are to be carried out to meet the objectives of the ARC Program.

(15) "Recipient" means the entity receiving grant funds pursuant to this Agreement, as more particularly identified on the cover page of this Agreement, as well as "contractor" as defined in KRS 45A.030.

(16) "Recipient Activities" means those activities of the Project to be carried out by the Recipient, its agent or agency, which activities are described in Exhibit B of this Agreement and further defined in the Application.

## **2. AMOUNT AND AUTHORIZED USES OF GRANT FUNDS**

### **A. Grant Assistance Provided**

In consideration of the various obligations undertaken by the Recipient pursuant to this Agreement, as represented by the Recipient in the Application, the Commonwealth agrees, subject to the terms and conditions set forth herein, to provide the Recipient with grant funds in the amount specified in Exhibit A of this Agreement.

### **B. Authorized Uses of Grant Funds**

The grant funds provided to the Recipient pursuant to this Agreement shall be used only for the specific purposes described in Exhibit B of this Agreement and in the amounts budgeted in Exhibit C of this Agreement, subject to the project amendments provisions of the ARC program as administered by the Commonwealth.

### **C. Adjustments to Grant Funds**

(1) The amount of grant funds which ARC has agreed to provide to the Recipient under their Grant Agreement and to be carried out by the Commonwealth under this Agreement has been determined in reliance upon the cost estimates of the Recipient with respect to the activities set forth in the Application. The Commonwealth reserves the right to reduce the grant amount (i) to conform to any revision to which the Commonwealth and ARC agree with respect to Exhibits B or C of this Agreement, (ii) if the actual costs for activities are lower than those set forth in Exhibits B or C of this Agreement, or (iii) subject to the availability of funds from the ARC.

(2) The parties understand that funding pursuant to this Agreement may be discontinued by ARC in subsequent budgets.

### **D. Recipient's Use of Program Income**

(1) All Program Income which is received by the Grantee, prior to completion of all Grantee Activities shall be used prior to, and in place of, any draw of grant funds to the extent adequate to pay costs so incurred.

(2) Unless otherwise specifically stated in Exhibit B of this Agreement, all Program Income received by the Recipient, after completion of all Recipient Activities shall be used by the Recipient, for community or economic development activities eligible for assistance under the Act.

### 3. DISBURSEMENT OF GRANT FUNDS

#### A. Authorization

(1) Promptly after the Commonwealth has received from the Recipient two (2) fully executed copies of this Agreement and has approved evidentiary materials required by Exhibit D of this Agreement that would allow a draw of grant funds pursuant to the terms of Exhibits B and C of this Agreement, the Commonwealth shall authorize the amount of grant funds specified in Exhibit A of this Agreement.

(2) The Recipient is authorized to draw grant funds only in accordance with the provisions of this Agreement and the procedures established by the Commonwealth. No payment by the Commonwealth of an improper or unauthorized draw to the Recipient shall constitute a waiver of the right of the Commonwealth to challenge the validity of said draw, to enforce all rights and remedies set forth in the Agreement, or take corrective or remedial administrative action, which action may include, without limitation, suspension or termination of the Recipient's funding under this Agreement.

(3) The disposition of any grant funds that remain available following completion of the Project, termination of this Agreement by the Commonwealth, or termination of the Project for any cause, shall be in accordance with closeout procedures then in effect or established by the Commonwealth including provisions of 2 CFR 200 and the Recipient shall not have any rights to such grant funds.

#### B. Incurring Costs for Project Activities

(1) The use of grant funds is conditioned upon the Recipient incurring costs to be paid in accordance with this Agreement or as otherwise approved by the Commonwealth in writing. Except as permitted by 24 CFR Part 58, no costs to be paid out of project funds may be incurred by the Recipient until all Environmental Conditions of 24 CFR Part 58 have been fully satisfied and the Commonwealth has issued the environmental clearance required by 24 CFR Part 58.

(2) The authorization to incur costs in subsection (1) above is not an authorization to reimburse those costs and does not mean or imply that such costs will be reimbursed out of grant funds. The Recipient may voluntarily, at his or her own risk, and upon his or her own credit and expense, incur costs as authorized in subsection (1) above, but his or her authority to reimburse or to be reimbursed out of grant funds shall be governed by the provisions of this Agreement applicable to the payment of costs and the release of funds by the Commonwealth.

(3) Prior to the issuance by the Commonwealth of the environmental releases required by 24 CFR Part 58, the Recipient may not use any funds, including local funds, to take any action with respect to the Project where such action might have an adverse

environmental effect, would limit choices among competing alternatives, or might alter the environmental premises on which the pending clearance is based in such a fashion that the validity of the conclusions to be reached would be affected.

**C. Authorization by the Commonwealth for the Recipient to Draw Grant Funds**

Recipient's draw of grant funds can occur only after the following has occurred:

(1) The Commonwealth has issued the environmental clearance required by 24 CFR Part 58,

(2) The Commonwealth has approved the required evidentiary materials specified in Exhibit D of the Agreement,

(3) The Commonwealth has authorized, per the executed Notice of Approval of Evidentiary Materials and Release of Funds, the Recipient's ability to draw grant funds,

(4) Recipient shall have submitted all certifications and materials required as conditions precedent to Recipient's authority to pay costs out of grant funds,

(5) If authorized by Exhibit D herein and if the Commonwealth finds Recipient has timely and acceptably submitted the evidentiary materials in Exhibit D herein, approved same, and if no default has occurred, as defined in Section 6-A herein, and

(6) Recipient has not been served by the Commonwealth with notice of Recipient's suspension of authority to so draw the grant funds nor is in breach of its obligation to report a default.

**4. REPRESENTATIONS, WARRANTIES, AND OBLIGATIONS**

**A. Recipient's Representations and Warranties**

The Recipient has, by and through consultations among all appropriate members of the Recipient's governing body and its officers, examined each of the following and by its execution of this Agreement the Recipient does, upon information and belief, represent and warrant to the Commonwealth that:

(1) The Recipient is duly organized and validly existing under the laws of the Commonwealth, and has all the requisite power and authority to enter into this Agreement and to assume the responsibilities for compliance with all Federal and State laws and regulations.

(2) A resolution, motion, order or ordinance has been duly adopted, passed or enacted as an official act of the Recipient's governing body, authorizing the execution and delivery of this Agreement by the Recipient and authorizing and directing the person executing

this Agreement to do so for and on behalf of the Recipient, said acts being done in such manner and form as to comply with all applicable laws to make this Agreement the valid and legally binding act and agreement of the Recipient.

(3) There is no action, proceeding, or investigation now pending, nor any basis therefore, known or believed by the Recipient to exist, which (i) questions the validity of this Agreement, or any action taken or to be taken under it, or (ii) is likely to result in any material adverse changes in the authorities, properties, assets, liabilities, or conditions (financial or otherwise) of the Recipient which would materially and substantially impair the Recipient's ability to perform any of the obligations imposed upon the Recipient by this Agreement.

(4) The representations, statements, and other matters contained in the Application were true and complete in all material respects as of the date of filing. The Recipient is aware of no event which would require any amendment to the Application (other than an amendment which has been filed with and approved by the Commonwealth) which would make such representations, statements, and other matters true and complete in all material respects and not misleading in any material respect. The Recipient is aware of no event or other fact, which should have been, and has not been, reported in the Application as material information.

(5) The Recipient has obtained or has reasonable assurances that it will obtain all Federal, State and local government approvals and reviews required by law to be obtained by the Recipient for the Project.

(6) Insofar as the capacity of the Recipient to carry out any obligation under this Agreement is concerned, (i) the Recipient is not in material violation of its Charter, or any mortgage, indenture, agreement, instrument, judgment, decree, order, statute, rule or regulation and (ii) the execution and performance of this Agreement will not result in any such violation.

(7) Except for approved eligible administrative and personnel costs, none of the recipient's designees, agents, members, officers, employees, consultants or members of its governing body in which the program is situated, and no other public official of the recipients of such locality or localities who exercises or who has exercised any functions or responsibilities with respect to the project during his or her tenure, or who is in a position to participate in a decision-making process or gain inside information with regard to the project, has or shall have any interest, direct or indirect, in any contract or subcontract or the proceeds thereof for work performed in connection with the project or in any activity, or benefit there from, which is part of this project at any time during or after such person's tenure unless all procedures for an exception have been documented and submitted in writing to the Department for Local Government and the Department for Local Government has approved such exception.

(8) Anti-Lobbying – The recipient certifies that;

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or

employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(9) Conflicts of Interest - The procedures for requesting, documenting, and submitting a request for an exception from the Conflict of Interest provisions shall include the applicable procedures delineated in 24 CFR 570.489(h)(4); KRS 99.350(8); KRS 61.252(1); KRS 65.003; and the local community ethics code. This Conflict of Interest provision shall be in addition to the requirements in the "Common Rule," 24 CFR Part 85, 24 CFR 570.489(h), A-110, KRS 45A.340, KRS 61.210, KRS 61.220 and KRS 61.250 et. seq.

**B. Obligation to Complete Recipient Activities as Scheduled**

(1) The Recipient shall use its best efforts to assure the completion of the Recipient Activities described in Exhibit B of the Agreement and further defined in the Application.

(2) The Recipient agrees that the foregoing undertaking and assurance means that Recipient shall, to the maximum extent permitted by law, use and apply all of its governmental and proprietary powers for such completion, including but not limited to those powers governing taxes, other revenues, credit, eminent domain and appropriations, if necessary, for the purpose of providing any shortfall between funds available under the grant and funds necessary to complete all of the Recipient Activities described in Exhibit B of this Agreement.

**C. Commonwealth Approval of Amendments**

The Commonwealth will consider program amendments initiated by the Recipient or by the Commonwealth. The Commonwealth defines a program amendment as a request for change in an approved program which (i) is a new activity in the program, (ii) significantly alters the scope, location, or objective of the approved activities or beneficiaries, and/or (iii) results in a change or cumulative changes of the approved budget. Any amendments will be made in accordance with the procedures set forth in the Kentucky Community Development Block Grant Handbook established by the Commonwealth and approved by ARC.

D. Notification and Action upon Default

(1) The Recipient shall promptly give written notice to the Commonwealth upon the discovery by the Recipient of any default involving any Participating Party or Subrecipient, as defined in Section 6-A of this Agreement.

(2) Promptly, upon the discovery of any default involving any Participating Party or Subrecipient, the Recipient shall vigorously pursue, to the fullest extent possible, all remedies available to Recipient to remove or cure such default, or to seek redress or relief from its effects, including reimbursement for any grant funds expended on the Project, and to prevent or mitigate any adverse effects on the Project. Recipient shall keep the Commonwealth fully informed as to the status of such actions.

**5. INSPECTION AND REVIEW**

A. Duty to Maintain and Rights to Inspect and Copy, Books, Records and Documents

(1) The Recipient shall keep and maintain such books, records and other documents as shall be required under rules and regulations now or hereafter applicable to grants made under the CDBG and ARC Programs, and as may be reasonably necessary to reflect and fully disclose the amount and disposition of the grant funds, the total cost of the activities paid for in whole or in part with grant funds, and the amount and nature of all investments relative to such activities which are supplied or to be supplied by other sources.

(2) All such books, records and other documents shall be available at the office of the Recipient for inspection, copying, audit and examination at all reasonable times by any duly authorized representative of the Commonwealth, ARC, the General Accounting Office and the Inspector General of the United States.

B. Site Visits

Any duly authorized representative of the Commonwealth or ARC shall, at all reasonable times, have access to all portions of the Project until completion of all closeout procedures and final settlement and conclusion of all issues arising from this grant.

C. Reports

The Recipient shall promptly furnish to the Commonwealth all reports required to be filed in accordance with any directives of the Commonwealth or any statute, rule or regulation of HUD or the ARC Agreement.

**6. DEFAULTS AND REMEDIES**

A. Defaults

A default shall consist of any use of grant funds for any purpose other than as authorized in Exhibits B and C of this Agreement; or any breach of any covenant, agreement, provision, or warranty (i) the Recipient made in the Agreement; (ii) the Recipient made in any agreement entered into between the Recipient and any Participating Party or Subrecipient, relating to the Project; (iii) any Participating Party or Subrecipient, made in any agreement specified in Exhibit D of this Agreement, or; (iv) of the time frame specified in Exhibit B of the Agreement.

B. Remedies Upon Default

(1) Upon occurrence of any default as described in Section 6-A, the Commonwealth may suspend the Recipient's authority to draw grant funds at any time by notice to the Recipient and ARC. If a default is not cured within thirty (30) consecutive days from notice of such default by the Commonwealth to the Recipient, the Commonwealth may continue such suspension or by delivery of notice terminate this Agreement. In the event of a termination, the Recipient's authority to draw funds shall have terminated at the date of the notice of termination and the Recipient shall have no right, title or interest in or to any grant funds remaining except as determined by ARC.

(2) In addition to any other rights or remedies, if a default consists of the Recipient's failure to submit the evidentiary materials described in Exhibit D of this Agreement or in other official written notification, the Commonwealth shall have the right to terminate this Agreement and the award of grant funds to which this Agreement relates by delivery of written notice to the Recipient. Upon such termination, all obligations of the Commonwealth pursuant to this Agreement and such award shall cease and the Recipient shall neither have nor retain any rights whatsoever with respect to the grant funds provided under this Agreement except as determined by ARC.

(3) The rights and remedies of the Commonwealth shall be deemed to be cumulative and shall be in addition to all those rights afforded the Commonwealth by law or equity. Any election of any right or remedy shall not be deemed to be an election of that right or remedy to the exclusion of any other right or remedy.



(4) The rights and remedies available to the Commonwealth in the event of a suspension or termination of the Agreement shall survive such suspension or termination.

## 7. EVIDENTIARY MATERIALS

### A. Commitments of Participating Parties and Subrecipients

(1) In selecting the Recipient for the award of this grant, the Commonwealth has relied, in material part, upon the representations of the Recipient and Participating Parties or Subrecipients, that the Recipient and the Participating Parties or Subrecipients (i) will carry out certain activities connected with the Project; (ii) will complete those activities; (iii) have, or will have, the financial capability to assure the carrying out of the activities to the completion; and (iv) will invest, or cause to be invested, a specific value amount in the Project.

(2) Evidentiary materials submitted by the Recipient as Exhibit D which have been submitted to and approved by the Commonwealth shall not be amended in any material respect without prior written approval of the Commonwealth.

### B. Form of Documentary Evidence

All documentary evidence of commitments submitted to the Commonwealth for approval shall be in the form of either (i) a duplicate original, or (ii) a photographic copy of the fully executed original, of the documents.

## 8. MISCELLANEOUS

### A. Notice

(1) All amendments, notices, requests, objections, waivers, rejections, agreements, approvals, disclosures and consents of any kind made pursuant to this Agreement shall be in writing.

(2) Any such communication shall be deemed effective for all purposes as of the date such communication is mailed, postage prepaid, by first class, registered or certified mail, return receipt requested, to be delivered only to the office of the addressee, addressed as follows:

(a) Communications to the Commonwealth shall be mailed to: Office of Federal Grants, Department for Local Government, 1024 Capital Center Drive, Suite 340, Frankfort, Kentucky 40601.

(b) Communications to the Recipient shall be addressed to the Recipient, at the address set forth in Exhibit A of this Agreement, or such other address or representative as may be furnished by the Recipient to the Commonwealth.

B. Assignment

No right, benefit, or advantage inuring to the Recipient under this Agreement and no burden imposed on the Recipient hereunder may be assigned without the prior written approval of the Commonwealth. An authorization by the Commonwealth for the transfer of grant funds by Recipient to a Participating Party or Subrecipient, shall not be deemed an authorization for an assignment, and such Participating Party or Subrecipient shall not succeed to any rights, benefits or advantages of the Recipient hereunder.

C. Successors Bounds

This Agreement shall bind, and the rights, benefits and advantages shall inure to, the Recipient's successors.

D. Remedies Not Impaired

No delay or omission of the Commonwealth in exercising any right or remedy available under this Agreement shall impair any such right or remedy or constitute a waiver of any default, or an acquiescence therein.

E. Cumulative Remedies

All rights and remedies of the Commonwealth under this Agreement shall be cumulative.

F. Severability

If any article, subsection, clause or provision of this Agreement is held by any court to be unenforceable or prohibited by any law applicable to this Agreement, the rights and obligations of the parties shall be construed and enforced with that part, term or provision limited so as to make it enforceable to the greatest extent allowed by law, or, if it is totally unenforceable, as if this Agreement did not contain that particular part, term or provision.

G. Entire Agreement

This Agreement constitutes the entire agreement between the Commonwealth and the Recipient and supersedes all prior oral and written agreements between the parties hereto with respect to the subject grant. Notwithstanding the provisions of Section 1-A of this Agreement and anything contained in the Application, the provisions of this Agreement shall prevail.

H. Table of Contents; Titles and Headings

Any table of contents and the headings of the sections and subsections set forth herein are not a part of this Agreement and shall not be deemed to affect the meaning or construction of any of its provisions.

I. Amendment of this Agreement

This Agreement, or any part hereof, may be amended as previously described in Section 4-C from time to time hereafter only in writing executed by the Commonwealth and the Recipient.

J. Governing Law

This Agreement as it may affect the rights, remedies, duties, and obligations of the Commonwealth shall be governed by and construed in accordance with Federal and State law. Insofar as Federal law does not apply, the provisions of this Agreement shall be governed by and construed in accordance with the laws of the Commonwealth.

K. Waiver by the Commonwealth

The Commonwealth reserves and shall have the exclusive right to waive, at the sole discretion of the Commonwealth, and to the extent permitted by law, any requirement or provision under this Agreement. No act by or on behalf of the Commonwealth shall be, or be deemed or construed to be, any waiver of any such requirement or provision, unless the same be in writing, signed by the Commonwealth, and expressly stated to constitute such waiver.

L. Termination of Agreement

This Agreement shall terminate upon the completion of all closeout procedures respecting this grant including provisions of the Single Audit Act, 2 CFR 200 and the final settlement and conclusion between Recipient and the Commonwealth of all issues arising out of this grant. Either party may cancel the contract upon written notice in accordance with Section 9 below. This notice, if tendered by the Commonwealth, may also include the notice to cure provided for in Section 6 B. (1). Upon termination of the agreement pursuant to this provision, the Recipient shall have no right to grant funds remaining to be disbursed. This provision shall in no way impair and shall be in addition to any additional remedies the Commonwealth may have upon a finding of default or other non-compliance according to the terms of this Agreement. Upon termination of this Agreement by either party with or without cause, the Commonwealth may declare this Agreement void from the beginning without further obligation to the Recipient. Further, if the Agreement is terminated by the Recipient with or without cause or by the Commonwealth with cause, the Commonwealth or ARC may recover all funds paid to the Recipient hereunder.

M. Anti-Speculation Provisions-Sale of Real Property

(1) When, in Exhibit D of this Agreement, a document is required to contain a provision for the prevention or discouragement of speculation in the purchase and sale of property by a beneficiary of grant funds, then, unless otherwise specified, such provision shall comply with this Section.

(2) The document shall prohibit the beneficiary of grant funds from selling or otherwise disposing of the property within a period specified in Exhibit D of this Agreement after the date of the purchase, for an amount in excess of the purchase price paid, plus the actual costs of any improvements to the property by the beneficiary. The prohibition against sale shall have the same force and effect as a lis pendens, and shall specify that in the event of any attempted sale in violation of the provision; the Recipient shall be entitled to the ex-parte issuance of an injunction restraining such sale. The document shall be executed and authenticated in such manner and form as may be required under State law to authorize its recordation at the place of recordation of deeds, as if a lis pendens and the document shall be so recorded.

(3) The document may, in conjunction with the foregoing or in lieu thereof, describe a procedure where under, in the event of any sale of the property within the period specified in Exhibit D of the Agreement, the amount of grant funds which benefited the beneficiary shall be repaid by the beneficiary to the Recipient. Such procedure may include a pro-rata reduction of the amount to be repaid, based upon the time elapsing between the date of the initial purchase of the property and its disposition by the beneficiary. The document must either specify the amount of the grant funds which benefited the beneficiary, or set forth a formula or agreed method for determining such amount. The document shall be executed and authenticated in such manner and form as may be required to authorize its recordation, as if a lis pendens and the document shall be so recorded.

**9. MOA STANDARD TERMS AND CONDITIONS**

**1.00 Cancellation clause:**

The state agency shall have the right to terminate and cancel this contract at any time not to exceed thirty (30) days' written notice served on the Contractor by registered or certified mail.



**2.00 Funding Out Provision:**

The state agency may terminate this agreement if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the agreement. The state agency shall provide the Contractor thirty (30) calendar days written notice of termination of the agreement due to lack of available funding.

**3.00 Reduction in Contract Worker Hours:**

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement will be reduced by the amount specified in that document. If the contract funding is reduced, then the scope of work related to the contract may also be reduced commensurate with the reduction in funding. This reduction of the scope shall be agreeable to both parties and shall not be considered a breach of contract.

**4.00 Access to Records:**

The state agency certifies that it is in compliance with the provisions of KRS 45A.695, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030, agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

**5.00 Effective Date:**

All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the agreement and until the agreement has been submitted to the government contract review committee. However, in accordance with KRS 45A.700, memoranda of agreement in aggregate amounts of \$50,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

**6.00 Violation of tax and employment laws:**

KRS 45A.485 requires the Contractor and all subcontractors performing work under the agreement to reveal to the Commonwealth, prior to the award of a contract, any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively.

To comply with the provisions of KRS 45A.485, the Contractor and all subcontractors performing work under the agreement shall report any such final determination(s) of violation(s) to the Commonwealth by providing the following information regarding the final determination(s): the KRS violated, the date of the final determination, and the state agency which issued the final determination.

KRS 45A.485 also provides that, for the duration of any contract, the Contractor and all subcontractors performing work under the agreement shall be in continuous compliance with the provisions of those statutes, which apply to their operations, and that their failure to reveal a final determination as described above, or failure to comply with the above statutes for the duration of the agreement shall be grounds for the Commonwealth's cancellation of the agreement and their disqualification from eligibility for future state contracts for a period of two (2) years.

[Check box section below need only be included for Contractors that are quasi-governmental entities or 501(c)3 non-profit entities.]

Contractor must check one:

The Contractor has not violated any of the provisions of the above statutes within the previous five (5) year period.

The Contractor has violated the provisions of one or more of the above statutes within the previous five (5) year period and has revealed such final determination(s) of violation(s). Attached is a list of such determination(s), which includes the KRS violated, the date of the final determination, and the state agency which issued the final determination.

**7.00 Discrimination:**

This section applies only to agreements disbursing federal funds, in whole or part; when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this agreement, the Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous

places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of the Contractor's noncompliance with the nondiscrimination clauses of this agreement or with any of the said rules, regulations or orders, this agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

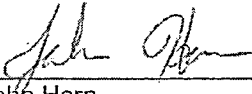
The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

Department for  
Local Government


Martin County Water District

\_\_\_\_\_  
Sandra K. Dunahoo  
Commissioner

  
\_\_\_\_\_  
John Horn  
Chairman

Examined as to form and legality:

\_\_\_\_\_  
Greg Ladd – General Counsel

  
\_\_\_\_\_  
Martin County Water District Counsel



**EXHIBIT A**

**SUPPLEMENTARY PROVISIONS**

Rider to Section 1-B (2). In addition to Recipient's Application for ARC Grant Assistance, "Application" shall include the following submittals:

Cost Summary (Exhibit C)

Rider to Section 1-B (12). The terms "Subrecipient" and "Participating Party" consist of the following persons, entities, firms, corporations and funding sources:

**None**

Rider to Section 2-A. The amount of this ARC grant is:

\$1,200,000

Rider to Section 8-A. The address of the Recipient for the purposes of communications relating to this Agreement shall be the following:

**Recipient Representative**

John Horn  
Chairman, Martin County Water District  
387 East Main Street  
Inez, Kentucky 41224-0309

**Contact**

Ms. Brenda Powers  
Big Sandy Area Development District  
110 Resource Court  
Prestonsburg, KY 41653

**EXHIBIT B**

**DESCRIPTION OF RECIPIENT ACTIVITIES**

Rider to Section 1-B (16). "Recipient Activities" for this Project shall consist of the following:

1. The Recipient agrees to perform activities as stated in the ARC Application and ARC Grant Agreement executed on September 15, 2017 as summarized below:
  - a. The Recipient shall design and construct a 1,000 service lines and meters in the Beauty and Warfield areas.
  - b. The Recipient will provide the necessary engineering design and inspection services.
2. The Recipient will provide necessary administration of the project by a certified CDBG grant administrator to assure compliance with all applicable state, federal and local statutes. The Recipient shall provide progress reports to DLG semi-annually, which DLG shall submit to ARC.
3. The Recipient will expend no more than \$50,000 in ARC funds to cover the planning and administrative costs of the project.
4. The Recipient will have the project advertised for bid within six (6) months of the date of the fully executed Implementation/Fiscal Agent Agreement and completed by September 29, 2020. If the Recipient has not started construction within eighteen (18) months of project approval, the Recipient and DLG must provide ARC with a revised construction schedule.
5. The Recipient must provide assurance they will incorporate Davis-Bacon rates into all construction contracts where they are applicable and follow all state and federal Labor Standards provisions.
6. The Recipient must be currently using or adopt an accounting system that meets the requirements of the Kentucky Uniform System of Accounting.
7. The Recipient will be responsible for determining the objectives of each activity and measuring the outcomes of each activity funded with ARC funds. A final report shall be provided to DLG at project completion.
8. The Recipient ensures compliance with Title I of the Housing and Community Development Act of 1974, Title VI of the Civil Rights Act of 1964, Equal Employment Opportunity, Section 504, Drug Free Workplace requirements, and promoting nondiscrimination. In addition, the applicant ensures compliance with all other State and Federal laws.
9. When applicable: The Recipient must adhere to the Uniform Relocation Act (URA) regulations when acquiring the proposed properties.

**EXHIBIT C**

**PROJECT BUDGET – SUMMARY OF PROPOSED EXPENDITURES**

*Attached (as marked Exhibit C containing one page)*

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## COST SUMMARY

DLG USE ONLY

Applicant: Martin County Water District

Exhibit C  
Project #

Activity Code	Activity Description	CDBG Funds		OTHER FUNDS	TOTAL	SOURCE
		LMI	Slum/Blight			
1	ACQUISITION					
2	CLEARANCE					
3	RELOCATION					
a	owner					
b	renter					
c	other					
	<b>TOTAL RELOCATION</b>					
4	REHABILITATION					
a	code enforcement					
b	grants					
c	loans					
d	public housing modernization					
e	non-residential-historic preservation					
f	acquisition for rehabilitation					
g	multi-unit residential rehabilitation					
h	rehabilitation administration					
i	other					
	<b>TOTAL REHABILITATION</b>					
5	PUBLIC FACILITIES					
a	parks & recreation facilities					
b	street improvements					
c	water lines					
d	water treatment facilities					
e	sewer lines					
f	sewage treatment facilities					
g	flood & drainage facilities					
h	senior centers					
i	centers for the disabled/handicap					
j	child care centers					
k	Other-Service lines and meters			1,053,750	1,053,750	ARC
	<b>TOTAL PUBLIC FACILITIES</b>			<b>1,053,750</b>	<b>1,053,750</b>	
6	PUBLIC SERVICES					
7	ED ON-SITE DEVELOPMENT					
a	clearing and grading					
b	street improvements					
c	water lines					
d	water treatment facilities					
e	wastewater collection					
7	f wastewater treatment					
g	drainage facilities					
h	other					
	<b>TOTAL ED On-Site Develop.</b>					
8	ED OFF-SITE DEVELOPMENT					
a	clearing and grading					
b	street improvements					
c	water lines					
d	water treatment facilities					
e	wastewater collection					
f	wastewater treatment					
g	drainage facilities					
h	other					
	<b>TOTAL ED Off-Site Develop.</b>					
9	COMMERCIAL/INDUSTRIAL FACILITIES					
a	land acquisition/disposition					
b	building acquisition/construction/rehabilitation					
c	other improvements					
	<b>TOTAL Commercial/Industrial Facilities</b>					
10	Commercial/Industrial Equipment					
11	Inventory/Working Capital					
12	Microenterprise Technical Assistance					
13	Other					
	Subtotal			1,053,750	1,053,750	
14	PLANNING					
15	ADMINISTRATION			50,000	50,000	ARC
	CONTINGENCIES			96,250	96,250	ARC
	<b>TOTAL PROJECT COSTS</b>			<b>1,200,000</b>	<b>1,200,000</b>	

*Architectural/Engineering Costs must also be shown in a line item above (do not show as "other")*

Architectural/Engineering Design		70,800	70,800	ARC
Architectural/Engineering Inspection		58,750	58,750	ARC
Architectural/Engineering Other		17,700	17,700	ARC
<b>Total Architectural/Engineering</b>		<b>147,250</b>	<b>147,250</b>	

**EXHIBIT D**

**REQUIRED EVIDENTIARY MATERIALS**

Recipient agrees to submit the following evidentiary materials for the approval of the Commonwealth in the manner and form described by the applicable provisions of Section 7 of this Agreement:

- Environmental Certification per 24 CFR, Part 58
  - Request for Release of Funds
  - Environmental Review Status Sheet
  - Tear sheet(s) from advertisement of environmental notices
  - Copy of the clearance from the State Historic Preservation Officer
  - Copy of endorsement from the Clearinghouse Review
- Copy of and evidence that a Residential Anti-displacement and Relocation Assistance Plan has been adopted
- Evidence of budget ordinance/amendment indicating inclusion of ARC funds into the Recipient's budget
- Copy of and evidence of adoption of a procurement code meeting the CDBG requirements
- Evidence of Clearinghouse review and assurance that all conditions will be met
- Resolution that the Recipient will be responsible for any cost overruns.
- Equal Opportunity Requirements:
  - Section 504 Accessibility Self-Evaluation and Transition Plan (if applicable)
  - Drug Free Workplace Statement
  - Title VI Self Survey and Statement of Assurance or Title VI Implementation Plan
- Authorized Signature Form
- Electronic Transfer of Funds Form
- Written assurance that the Recipient has adopted an accounting system deemed comparable to the Kentucky Uniform System of Accounts by a Certified Public Accountant.
- 9-Digit Taxpayer Identifying Number (TIN assigned by the Internal Revenue Service)
- W9 Form
- Kentucky Department of Finance and Administration Vender Number