



STAFF REPORT

DATE: November 21, 2023
CONSENT

AGENDA ITEM: Approve MPCA Grant Agreement Amendment #3 for the 38th-39th Street Neighborhood Street and Utility Improvements

SUBMITTED BY: Jack Griffin, City Engineer

REVIEWED BY: Kristina Handt, City Administrator
Sarah Sonsalla, City Attorney
Clarissa Hadler, Finance Director
Marty Powers, Public Works Director
Chad Isakson, Project Engineer

ISSUE BEFORE COUNCIL: Should the City Council approve the Grant Agreement Amendment #3 with the MPCA for the 38th-39th Street Neighborhood Street and Utility Improvements?

BACKGROUND: On October 20, 2020, the city council approved a Grant Agreement with MPCA to extend city water to serve the properties in the 38th-39th Street Neighborhood. The current grant expires December 31, 2023.

PROPOSAL DETAILS/ANALYSIS: The Project warranty period expired on November 15, 2023, however, some warranty repair work may not be completed until sometime in 2024. Therefore, the City requested a time extension to the Grant Agreement to ensure that all potential warranty period costs will be covered by the Grant. The Grant Amendment extends the expiration date until December 31, 2024.

OPTIONS:

- 1) Approve the Grant Agreement Amendment #3 with the MPCA for the 38th-39th Street Neighborhood Street and Utility Improvements.
- 2) Do not approve the Grant Agreement Amendment #3.

FISCAL IMPACT: Not applicable.

RECOMMENDATION: Staff is recommending that the City Council Approve, *as part of the Consent Agenda*, the Grant Agreement Amendment #3 with the MPCA for the 38th-39th Street Neighborhood Street and Utility Improvements. If removed from the *Consent Agenda*, the recommended motion for this action is as follows:

“Move to approve Grant Agreement Amendment #3 with the MPCA for the 38th-39th Street Neighborhood Street and Utility Improvements.”

ATTACHMENTS:

1. MPCA Grant Agreement Amendment #3.

Grant Agreement Amendment #3

State of Minnesota

Doc Type: Contract

SWIFT Contract Number: 184198

Agency Interest ID: 224243

Activity ID: PRO20200029

Contract Start Date:	<u>October 20, 2020</u>	Total Contract Amount:	<u>\$3,984,000.00</u>
Original Contract Expiration Date:	<u>June 30, 2023</u>	Original Contract:	<u>\$3,700,000.00</u>
Current Contract Expiration Date:	<u>December 31, 2023</u>	Previous Amendment(s) Total:	<u>\$284,000.00</u>
Requested Contract Expiration Date:	<u>December 31, 2024</u>	This Amendment:	<u>\$0.00</u>

This amendment is by and between the State of Minnesota, acting through its Commissioner of the **Minnesota Pollution Control Agency**, 520 Lafayette Road North, St. Paul, MN 55155-4194 ("MPCA" or "State") and **City of Lake Elmo**, ~~3800~~3880 Laverne Avenue North, Lake Elmo, MN 55042 ("Grantee" or "Contractor").

Recitals

1. The State has a grant contract with the Grantee identified as SWIFT Contract Number 184198 ("Original Grant Agreement") to provide the **38th Street and 39th Street Extension of Municipal Water Supply Project**.
2. The Original Agreement is being amended to extend the end date, revise well sealing language, and update authorized representatives.
3. The State and the Grantee are willing to amend the Original Grant Agreement as stated below.

Grant Agreement Amendment

In this Amendment, changes to pre-existing Agreement language will use ~~strike through~~ for deletions and underlining for insertions.

REVISION 1. Clause 1. "**Term of Grant Agreement**" is amended as follows:

1. Term of Grant Agreement

- 1.1 Effective date:** **October 20, 2020**, Per [Minn. Stat. §16B.98](#), Subd. 5, the Grantee must not begin work until this grant contract is fully executed and the State's Authorized Representative has notified the Grantee that work may commence. Per [Minn. Stat. §16B.98](#) Subd. 7, no payments will be made to the Grantee until this grant contract is fully executed.
- 1.2 Expiration date:** ~~December 31, 2023~~ **December 31, 2024**, or until all obligations have been satisfactorily fulfilled, whichever occurs first.
- 1.3 Survival of terms.** The following clauses survive the expiration or cancellation of this grant agreement: Indemnification; State Audits; Government Data Practices and Intellectual

Property; Publicity and Endorsement; Governing Law, Jurisdiction, and Venue; and Data Disclosure.

REVISION 2. Clause 2. "**Grantee's Duties and Well Sealing**" is amended as follows:

2. Grantee's Duties and Well Sealing

2.1 Grantee's duties. The Grantee, who is not a state employee, will perform the duties specified in ~~Revised Attachment A Amendment 23~~, which is attached and incorporated into this grant agreement.

2.2 Well Sealing. All associated wells are required to be properly sealed and abandoned as part of the project within the timeframe of the grant agreement. All well sealing will follow Minnesota Department of Health (MDH) regulations and will only be done by licensed well contractors.

Reimbursement for individual/residential water service connections and well sealing will not occur until proof of well sealing has been provided to MPCA.

MPCA may identify certain wells as potential monitoring wells. If agreed upon by MPCA, the City and the well owner, MPCA will assume responsibility of converting those wells to monitoring wells. In these instances, proof of well sealing is not required for reimbursement of individual/residential water service connection costs.

REVISION 3. Clause 6 "**Authorized Representative**" is amended as follows:

6. Authorized Representative

The State's Authorized Representative is ~~Gary Krueger, 520 Lafayette Road, St. Paul, MN 55155, 651-757-2509, gary.krueger@state.mn.us~~, **Elizabeth Kaufenberg**, 520 Lafayette Road, St. Paul, MN 55155, 651-757-2481, elizabeth.kaufenberg@state.mn.us, or their successor, and has the authority to monitor the Grantee's performance and to accept the services provided under this agreement. If the services are satisfactory, the MPCA's Project Manager will certify acceptance of each invoice submitted for payment.

The State's Project Manager is ~~Tim Lockrem, 520 Lafayette Road North, St. Paul, MN 55155, 651-757-2686, timothy.lockrem@state.mn.us~~, **Megan Holthaus**, 520 Lafayette Road North, St. Paul, MN 55155, 651-757-2843, megan.holthaus@state.mn.us, or their successor, and has the authority to monitor the Grantee's performance and receive invoices from the Grantee.

The Grantee's Authorized Representative is **Kristina Handt**, ~~3800-3880~~ Laverne Avenue North, Lake Elmo, MN 55042, 651-747-3905, khandt@lakeelmo.org, or their successor. If the Grantee's Authorized Representative changes at any time during this grant agreement, the Grantee must immediately notify the State.

Except as amended herein, the terms and conditions of the Original Grant Agreement and all previous amendments and change orders remain in full force and effect. The Original Grant Agreement and any previous amendments and change orders are incorporated into this amendment by reference.

Signatures

Title

Name

Signature

Date



520 Lafayette Road North
St. Paul, MN 55155-4194

Project Workplan

Doc Type: Contract

Swift #:	184198
AI #:	224243
Activity ID #:	PRO20200029

Project Title: 38th Street and 39th Street Extension of Municipal Water Supply Project

1. Project Summary:

Organization: City of Lake Elmo (the City)
Contact name: Kristina Handt
Address: ~~3800~~ 3880 Laverne Ave North
 Lake Elmo, MN 55042
Phone: 651-747-3905
E-mail: khandt@lakeelmo.org

Minnesota Pollution Control Agency (MPCA) contact:

MPCA project manager: ~~Tim Lockrem~~ Megan Holthaus
Address: 520 Lafayette Road North
 St. Paul, MN 55155
Phone: 651-757-~~2686~~ 2843
E-mail: ~~Timothy.lockrem@state.mn.us~~ megan.holthaus@state.mn.us

Project information

Start date: 10/20/2020 **End date:** ~~12/31/2023~~ 12/31/2024

Total estimated costs: **\$3,984,000**

2. Statement of Problems, Opportunities, and Existing Conditions

This project will extend clean drinking water to 49 homes located in the Bordners Garner Farnettes subdivision, in the general area bounded by 38th street, 39th street and Innsdale Avenue in the City of Lake Elmo by extending the municipal water system to serve each property. The project extends a 12-inch watermain from the adjacent Wildflower Shores subdivision. Approximately 7,200 feet of watermain will be extended to enable water service lines be installed to each home. Grant funds will also be used for sealing of private wells currently used by each residence. The properties reside in an area where per- and polyfluoroalkyl substances (PFAS) contamination exceeds Health Based Values (HBVs) and well advisories have been issued. The project is consistent with the long-term drinking water supply plan to address PFAS contamination to drinking water supplies in the East Metro area.

Individual water services will be stubbed from the main line for each of the 49 residential properties. The project will include grant funding and administrative processes for ensuring each property completes the private service connection from the service stub to each home, including water meter installation, sealing of the private well, removal of any existing granular activated carbon (GAC) filters, and all permitting and connection fees. The City intends to directly implement the public improvement portion of the project for the water main components that will remain owned and operated by the City and will require property owners to contract directly for the work to be completed on their individual properties. The private property work will be funded on a reimbursement basis. The City will distribute materials, provided by the MPCA, regarding individual/residential water service connections and well sealing to all residents impacted by this project.

In accordance with the City's standard Capital Improvement Program process a feasibility study and project design will be completed to ready the project for 2021 construction. Bids will be received in early 2021 with construction to commence in May 2021. The water main will be tested, operational and ready for connection to the individual properties in late 2021.

No environmental review is required to implement this project. The project will require the following permits:

- Minnesota Department of Health Watermain Extension Permit
- Washington County Right-of-Way Permit
- Valley Branch Watershed District Permit
- MPCA National Pollutant Discharge Elimination System Construction Permit

3. Measurable Outcomes

The City will report at least quarterly to the MPCA regarding progress of the project. The City will also report to the MPCA as part of the quarterly report the itemized costs incurred for that quarter for reimbursement by the MPCA. Monthly reimbursement requests can be provided as determined by the City.