



STAFF REPORT

DATE: July 2, 2019

CONSENT

ITEM #:

AGENDA ITEM: MPCA Grant for Well #5

TO: Mayor and City Council

SUBMITTED BY: Kristina Handt, City Administrator

BACKGROUND:

As mentioned previously this spring, the state (MPCA and DNR) have agreed to use some 3M settlement funds to aid in building a new well and sealing well #1 following the discovery of PFAS in well #1 which exceeds the Health Based Value (HBV) for four quarters. The state required the city to complete a feasibility study of options and it was found that a new well was the preferred option.

Staff has been working with the state on a grant agreement since this spring. A copy is included in your packet. Simultaneously, surveying work related to a test well in Tana Ridge Park has been occurring. Those costs will be covered by the grant since costs incurred beginning February 20, 2019 are eligible.

ISSUE BEFORE COUNCIL:

Should the Council approve the Grant Agreement with the MPCA for Well #5?

PROPOSAL:

The grant will cover 90% of the costs associated with the project since well #5 will have a larger pumping capacity than well #1. The project includes not only a new well in Tana Ridge Park but also watermain along 50th St between Lily Ave and Lake Elmo Ave and the sealing of well #1.

The agreement has been reviewed by the city attorney and engineer. We will need to make sure the prevailing wage requirements and insurance coverages are met by contractors but there are no other areas of concern.

FISCAL IMPACT:

The grant provides for a reimbursement of up to \$2.5 million. The city's 10% contribution will be funded by the water fund.

OPTIONS:

- 1) Approve the Well #5 Grant Agreement with MPCA
- 2) Do not approve the Well #5 Grant Agreement with MPCA

RECOMMENDATION:

If removed from the consent agenda:

Motion to approve the Well #5 Grant Agreement with MPCA

Grant Agreement

State of Minnesota

Doc Type: Contract/Grant Reference

SWIFT Contract: 155932

PO No: 3000023886

Agency Interest ID #: 90810

Activity ID #: PRO20190001

This grant agreement is 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 the **City of Lake Elmo**, a Minnesota municipal corporation, 3880 Laverne Avenue North, Lake Elmo, MN 55042 ("Grantee or "LGU")

Recitals

1. Under [Minn. Stat. § 116.03](#), Subd.2, the State is empowered to enter into this grant agreement.
2. The State will reimburse the Grantee for costs associated with the new water supply well (Well Number 5), as provided by Minn. Stat. § 115B.20, subd. 2(6), which provides authority for the MPCA to reimburse political subdivisions for environmental response actions that are related to emergency situations caused by releases of hazardous substances.
3. The Grantee will comply with required grants management policies and procedures set forth through [Minn.Stat. §16B.97](#), Subd. 4 (a) (1).
4. The Grantee represents that it is duly qualified and agrees to perform all services described in this grant agreement to the satisfaction of the State. Pursuant to [Minn.Stat. §16B.98](#), Subd.1, the Grantee agrees to minimize administrative costs as a condition of this grant.

Grant Agreement

1. **Term of Grant Agreement**

1.1 Effective date: **June 14, 2019**, or the date the State obtains all required signatures under [Minn. Stat. §16B.98](#), Subd. 5, whichever is later. Per [Minn.Stat. §16B.98](#) Subd. 7, no payments will be made to the Grantee until this grant agreement is fully executed.

1.2 Expiration date: **June 30, 2022**, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

1.3 Survival of Terms. The following clauses set forth in this grant agreement survive the expiration or cancellation of this grant agreement: Liability; State Audits; Government Data Practices and Intellectual Property Rights; Publicity and Endorsement; Governing Law, Jurisdiction, and Venue; and Data Disclosure.

2. **Grantee's Duties**

The Grantee, who is not a state employee, will submit invoices to the State for reimbursement for expenditures related to Well Number 5 and the sealing of Well Number 1. Eligible reimbursement

costs may include sealing of Well Number 1, construction, engineering and oversight costs associated with the project, as outlined in section 4.1.c.

3. Time

The Grantee must comply with all the time requirements described in this grant agreement. In the performance of this grant agreement, time is of the essence.

4. Consideration and Payment

4.1 Consideration.

The State will pay for all services performed by the Grantee under this grant agreement as follows:

(a) Compensation

The Grantee will be paid according to approved reimbursement invoices relating to the sealing of Well Number 1 and construction costs for Well Number 5. Costs will be reimbursed for expenses incurred starting February 20, 2019.

(b) Travel Expenses

Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Grantee as a result of this grant agreement will not exceed \$0; provided that the Grantee will be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the current "Commissioner's Plan" promulgated by the Commissioner of Minnesota Management and Budget (MMB). The Grantee will not be reimbursed for travel and subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out of state.

(c) Total Obligation of the Grantee

The total obligation of the Grantee for costs associated with the sealing of Well Number 1 and the construction of Well Number 5 will be 10 percent of all phases of the Well Number 5 project costs. The Grantee completed a project evaluation regarding Perfluorachemicals (PFC) impacts to Well Number 1 in January 2019 which outlined potential actions in response to the well advisory issued by the Minnesota Department of Health. The Grantee's percentage obligation is based on the difference in capacity of Well Number 1 and the expected capacity of the new Well Number 5. Well Number 1, a 500 gallons per minute (gpm) well, was removed from service due to Perfluoroalkyl substances (PFAS) concentrations exceeding the MDH's HBV. Well Number 5, a 1,250 gpm well, will accommodate both the loss in water capacity of Well Number 1 and future growth of the Grantee. The percentage obligation was calculated based on preliminary engineer's estimates for the following items necessary to accommodate the increased capacity at Well Number 5:

1. Differences in the diameters of the well open hole and casings;
2. Additional grout required for the casings;
3. Increased pump, motor, and column sizes;
4. Larger chemical feed and chemical storages systems;
5. Differences in generator, electrical, controls, VFD, and power requirements/installation/programming;
6. Larger process and site piping requirements; and
7. Engineering, administrative, and construction contingency costs.

The total project costs will be determined following the bidding phases of all portions of

the project as the project may be bid in multiple phases. Total project costs are defined as all engineering, administrative, bidding, and construction costs associated with the agreed scope detailed above.

(d) Total Obligation of State

The total obligation of the State for all compensation and reimbursements to the Grantee under this grant agreement will not exceed **\$2,500,000.00 (Two Million Five Hundred Thousand Dollars)** without prior approval from the State. The State's obligations are for only those portions of the project that are required to bring a new well into service to supplement the Grantee's water supply with a clean source of drinking water and the sealing of Well Number 1. If the Grantee includes other appurtenances into the project that are not necessary for this objective, the Grantee shall be obligated to pay 100 percent of those additional costs. Those costs should be kept separate or identified as alternate bids from the base bid project. The base bid project is to seal Well Number 1 and construct Well Number 5 in accordance with state, federal, and local regulations.

4.2 Payment

(a) Invoices

All invoices must be submitted at full cost with the Grantee requesting reimbursement for 90 percent of the total cost for each invoice submitted. The State will promptly pay the Grantee after the Grantee presents an itemized invoice for the reimbursement expenditures actually performed and the State's Authorized Representative accepts the invoiced services. Invoices must be submitted timely and according to the following schedule: Monthly or at least quarterly.

Invoices must be emailed to mpca.ap@state.mn.us, and contain the following information:

- Name of Grantee
- Grantee's Project Manager
- Request reimbursement amount
- Grant Amount
- Grant Amount available to date
- Invoice Number
- Invoice Date
- MPCA Project Manager
- SWIFT Contract Number
- Purchase Order Number
- Invoicing Period (actual working period)

Invoices shall be submitted to: mpca.ap@state.mn.us (subject line: Grantee Name and Invoice Number)

If there is a problem with submitting an invoice electronically, please contact the Accounts Payable Unit at 651-757-2491.

The Grantee shall submit an invoice for the final payment upon submittal of the final progress and financial report within 30 (thirty) days of the original or amended end date of this grant agreement. The State reserves the right to review submitted invoices after 30 (thirty) days and make a determination as to payment.

(b) Unexpended Funds

The Grantee must promptly return to the State any unexpended funds that have not been accounted for annually in a financial report to the State due at grant closeout.

4.3 Contracting and Bidding Requirements

Per [Minn. Stat. §471.345](#), grantees that are municipalities as defined in Subd. 1 must follow the law.

- (a) For projects that include construction work of \$25,000 or more, prevailing wage rules apply per [Minn. Stat. §§177.41](#) through [177.44](#). These rules require that the wages of laborers and workers should be comparable to wages paid for similar work in the community as a whole.

4.4 Prevailing Wage

Pursuant to Minnesota Statutes 177.41 to 177.44 and corresponding Minnesota Rules 5200.1000 to 5200.1120, this grant agreement is subject to the prevailing wages as established by the Minnesota Department of Labor and Industry. Specifically, all contractors and subcontractors must pay all laborers and mechanics the established prevailing wages for work performed under the grant agreement. Failure to comply with the aforementioned may result in civil or criminal penalties. Rates are listed in **Attachment A**.

In compliance with Minn. Stat. § 177.43, subd. 3 and §177.44, subd. 5, the wages of laborers, workers, and the mechanics on projects financed in whole or part by State Funds should be comparable to wages paid for similar work in the community as a whole. Project includes erection, construction, remodeling, or repairing of a public building or other public work financed in whole or part by State funds.

Any work on real property which uses the skill sets of any trades covered by Labor Code and Class under prevailing wages is construction and requires prevailing wages. See <http://www.doli.state.mn.us/LS/PrevWage.asp> for a list of affected trades.

The Grantee's contractors shall pay prevailing wages to their employees when conducting construction activities under this grant agreement.

Applicability. In accordance with Minn. Stat. § 177.43, subd. 7. This does not apply to an agreement or work under an agreement, under which:

A. the estimated total cost of completing the project is less than \$2,500 and only one trade or occupation is required to complete the work; or

B. the estimated total cost of completing the project is less than \$25,000 and more than one trade or occupation is required to complete it. .

Choose from Commercial, Highway/Heavy, or Residential Wage Rates:

The prevailing wage rate requirements are attached as Attachment A.

Prevailing Wage Payroll Information:

In accordance with Minn. Stat. § 177.30, subd. 4, and § 177.43, subd. 3, the Contractor and Subcontractor shall furnish to the Contracting Authority and the Project Owner:

- All payrolls, of all workers on the project, a certified payroll report via e-mail as attachments, a State of Minnesota Prevailing Wage Payroll Report as a Microsoft Excel file and Statement of Compliance Form as a PDF file to the appropriate e-mail addresses: prevailingwage.pca@state.mn.us and ownerprevailingwage.pca@state.mn.us
- The Subject line on the contractor's or subcontractor's e-mail must give their firm's name and the Contract or Purchase Order Number.
- These completed forms must be furnished not more than 14 days after the end of each pay period.
- The State of Minnesota Prevailing Wage Payroll Report and Statement of Compliance Form are available on the MMD website at <http://www.mmd.admin.state.mn.us/mn02000.htm>. Submit the completed and signed State of Minnesota Prevailing Wage Payroll Report as a Microsoft Excel file and the Statement of Compliance Form as a PDF file, no other payroll forms will be accepted to meet this requirement.

The prevailing wage payroll information forms that are submitted shall be maintained by the contracting agency for a minimum of three years after final payment has been made on the project. All of the data provided on the Prevailing Wage Payroll Information Form will be public data, which is available to anyone upon request.

Refer vendor questions regarding the Prevailing Wage Laws to the Department of Labor and Industry at 651-284-5091 or visit the website for Labor Standards Section, Prevailing Wage <http://www.doli.state.mn.us/LS/PrevWage.asp>

All construction work needs an IC-134 form submitted by the Contractor before payment can be made. The Contractor can find a copy of the IC-134 online at the Minnesota Department of Revenue website at <http://www.taxes.state.mn.us/forms/ic134.pdf>.

5. *Conditions of Payment*

All services provided by the Grantee under this grant agreement must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Grantee will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

6. *Authorized Representative*

The State's Authorized Representative is **Gary Krueger**, MPCA, 520 Lafayette Road North, St. Paul, MN 55155, 651-757-2509, gary.krueger@state.mn.us, or his successor, and has the authority to accept the services provided under this grant agreement. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The State's Project Manager is **Elizabeth Kaufenberg**, MPCA, 520 Lafayette Road North, St. Paul, MN 55155, 651-757-2481, Elizabeth.kaufenberg@state.mn.us, or her successor, and the responsibility to monitor the Grantee's performance and receive invoices from the Grantee.

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

7. Assignment Amendments, Waiver, and Grant Agreement Complete

7.1 Assignment

The Grantee shall neither assign nor transfer any rights or obligations under this grant agreement without the prior written consent of the State, approved by the same parties who executed and approved this grant agreement, or their successors in office.

7.2 Amendments

Any amendments to this grant agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original grant contract, or their successors in office.

7.3 Change Orders

If the State's Project Manager or the Grantee's Authorized Representative identifies a change needed in the workplan and/or budget, either party may initiate a Change Order using the Change Order Form provided by the MPCA. Change Orders may not delay or jeopardize the success of the Project, alter the overall scope of the Project, increase or decrease the overall amount of the grant agreement, or cause an extension of the term of this grant agreement. Major changes require an Amendment to this grant agreement rather than a Change Order.

The Change Order Form must be approved and signed by the State's Project Manager and the Grantee's Authorized Representative **in advance of doing the work**. Documented changes will then become an integral and enforceable part of the grant agreement. The MPCA has the sole discretion on the determination of whether a requested change is a Change Order or an Amendment to this grant agreement. The state reserves the right to refuse any Change Order requests.

7.4 Waiver

If the State fails to enforce any provision of this grant agreement, that failure does not waive the provision or the State's right to enforce it.

7.5 Grant Contract Complete

This grant agreement contains all negotiations and agreements between the State and the Grantee. No other understanding regarding this grant agreement, whether written or oral, may be used to bind either party.

8. Liability

The Grantee must indemnify, save, and hold the State, its agents, and employees harmless from any claims or causes of action, including attorney's fees incurred by the State, arising from the performance of this grant agreement by the Grantee or the Grantee's agents or employees. This clause will not be construed to bar any legal remedies the Grantee may have for the State's failure to fulfill its obligations under this grant agreement.

9. State Audits

Under Minn. Stat. § 16B.98, Subd.8, the Grantee's books, records, documents, and accounting procedures and practices of the Grantee or other party relevant to this grant agreement or transaction are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this grant agreement, receipt and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later.

10. Government Data Practices and Intellectual Property Rights

10.1 **Government data practices.** The Grantee and State must comply with the Minnesota Government Data Practices Act, [Minn. Stat. Ch. 13](#), as it applies to all data provided by the State under this grant agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Grantee under this grant agreement. The civil remedies of [Minn. Stat. § 13.08](#) apply to the release of the data referred to in this clause by either the Grantee or the State. If the Grantee receives a request to release the data referred to in this Clause, the Grantee must immediately notify the State. The State will give the Grantee instructions concerning the release of the data to the requesting party before the data is released. The Grantee's response to the request shall comply with applicable law.

10.2 Intellectual Property Rights

(a) Intellectual property rights. The State owns all rights, title and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents created and paid for under this grant agreement. Works means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the Grantee, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this grant agreement. Works includes "Documents." Documents are the originals of any databases, computer programs, reports, notes studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Grantee, its employees, agents, or subcontractors, in the performance of this grant agreement. The Documents shall be the exclusive property of the State and all such Documents must be immediately returned to the State by the Grantee, at the Grantee's expense, upon the written request of the State, or upon completion, termination, or cancellation of this grant agreement. To the extent possible, those Works eligible for copyright protection under the United States' Copyright Act will be deemed to be "works made for hire." The Grantee assigns all right, title, and interest it may have in the Works and the Documents to the State. The Grantee must, at the request of the State, execute all papers and perform all other acts necessary to transfer or record the State's ownership interest in the Works and Documents.

(b) Obligations.

- (1) **Notification.** Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Grantee, including its employees and subcontractors, in the performance of this grant agreement, the Grantee shall immediately give the State's Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure therein.
- (2) **Representation.** The Grantee must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole

property of the State, and that neither Grantee nor its employees, agents, or subcontractors retain any interest in and to the Works and Documents. The Grantee represents and warrants that the Works and Documents do not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause Liability, the Grantee shall indemnify, defend, to the extent permitted by the Attorney General, and hold harmless the State, at the Grantee's expense, from any action or claim brought against the State to the extent that it is based on a claim that all or part of the Works or Documents infringe upon the intellectual property rights of others. The Grantee will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including, but not limited to, attorney fees. If such a claim or action arises or in Grantee's or the State's opinion is likely to arise, the Grantee must, at the State's discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.

(3) License. The State hereby grants a limited, no-fee, noncommercial license to the Grantee to enable the Grantee's employees engaged in research and scholarly pursuits to make, have made, reproduce, modify, distribute, perform, and otherwise use the Works, including Documents, for research activities or to publish in scholarly or professional journals, provided that any existing or future intellectual property rights in the Works or Documents (including patents, licenses, trade or service marks, trade secrets, or copyrights) are not prejudiced or infringed upon, that the Minnesota Data Practices Act is complied with, and that individual rights to privacy are not violated. The Grantee shall indemnify and hold harmless the State for any claim or action based on the Grantee's use of the Works or Documents under the provisions of Section 10.2(b)(2) of this grant agreement. Said license is subject to the State's publicity and acknowledgement requirements set forth in this grant agreement. The Grantee may reproduce and retain a copy of the Documents for research and academic use. The Grantee is responsible for security of the Grantee's copy of the Documents. A copy of any articles, materials or documents produced by the Grantee's employees, in any form, using or derived from the subject matter of this license, shall be promptly delivered without cost to the State.

11. *Workers' Compensation*

The Grantee certifies that it is in compliance with [Minn. Stat. §176.181](#), Subd. 2, pertaining to workers' compensation insurance coverage. The Grantee's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the State's obligation or responsibility.

12. *Publicity and Endorsement*

12.1 Publicity. Any publicity regarding the subject matter of this grant agreement must identify the State as the sponsoring agency. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Grantee individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this grant agreement.

All projects primarily funded by state grant appropriations must publicly credit the State of Minnesota, including on the Grantee's website when practicable.

12.2 Endorsement. The Grantee must not claim that the State endorses its products or services.

13. *Governing Law, Jurisdiction, and Venue*

Minnesota law, without regard to its choice-of-law provisions, governs this grant agreement. Venue for all legal proceedings out of this grant agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

14. *Termination*

14.1 Termination by the State

The State or Grantee may immediately terminate this grant contract with or without cause, upon 30 days' written notice to the Grantee. Upon termination, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

14.2 Termination for Cause

The State may immediately terminate this grant agreement if the State finds that there has been a failure by the Grantee to comply with the provisions of this grant agreement, that reasonable progress has not been made by the Grantee or that the purposes for which the funds were granted have not been or will not be fulfilled by the Grantee. The State may take action to protect the interests of the State of Minnesota, including the refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed.

14.3 Termination for Insufficient Funding

The State may immediately terminate this grant agreement if:

(a) It does not obtain funding from the Minnesota Legislature

(b) Or, if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the Grantee. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the grant agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Grantee notice of the lack of funding within a reasonable time of the State's receiving that notice.

15. *Data Disclosure*

Under [Minn. Stat. § 270C.65](#), Subd. 3, and other applicable law, the Grantee consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Grantee to file state tax returns and pay delinquent state tax liabilities, if any.

16. *Subcontracting (if applicable)*

If the Grantee decides to fulfill its obligations and duties under this grant agreement through a subcontractor, to be paid for by funds received under this grant agreement, the Grantee shall not execute an agreement with the subcontractor or otherwise enter into a binding agreement until it

has first received written approval from the MPCA's Authorized Representative. All subcontracts shall reference this grant agreement and require the subcontractor to comply with all of the terms and conditions of this grant agreement. The Grantee shall be responsible for the satisfactory and timely completion of all work required under any subcontract and the Grantee shall be responsible for payment of all subcontracts. The Grantee shall pay all subcontractors, less any retainage, within 10 calendar days of receipt of payment to the Grantee by the State for undisputed services provided by the subcontractor and must pay interest at the rate of one and one-half percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor.

The Grantee must follow its policies and procedures for obtaining subcontractors and/or policies and procedures per Minn. Stat. § 471.345 as applicable.

17. Insurance requirements

Below are the minimum insurance limits required by the State of Minnesota for any entity that is **not** a state Agency or Local Government Unit (LGU) unless otherwise noted (**).

17.1 The Grantee shall not commence work under the Agreement until they (or subcontractor) have submitted acceptable evidence of insurance and the State of Minnesota has approved such insurance. LGU or subcontractor shall maintain such insurance in force and effect throughout the term of this grant agreement. A certificate of insurance is acceptable evidence.

17.2 Subcontractor is required to maintain and furnish satisfactory evidence of the following insurance policies:

(a) **Workers' Compensation Insurance.** Subcontractor must provide Workers' Compensation insurance for all of its employees and, in case any work is subcontracted, LGU will require any subcontractors to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer's Liability. Insurance **minimum** amounts are as follows:

\$100,000 -- Bodily Injury by Disease per employee
\$500,000 -- Bodily Injury by Disease aggregate
\$100,000 -- Bodily Injury by Accident

If Minn. Stat. § 176.041 exempts subcontractor from Workers' Compensation insurance or if the subcontractor has no employees in the State of Minnesota, subcontractor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes LGU from the Minnesota Workers' Compensation requirements.

If during the course of the grant agreement the subcontractor becomes eligible for Worker's Compensation, the subcontractor must comply with the Workers' Compensation Insurance requirements herein and provide the State of Minnesota with a certificate of insurance.

(b) **Commercial General Liability Insurance.** Subcontractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under this grant agreement and in any case work is subcontracted the LGU will require its subcontractors to provide Commercial General Liability. Insurance **minimum** amounts are as follows:

\$2,000,000 -- per occurrence
\$2,000,000 -- annual aggregate
\$2,000,000 -- annual aggregate -- Products/Completed Operations

**For LGUs, the coverage shall be maintained in conformance with the Tort Claims limits set forth in Minn. Stat. ch. 466, with limits not less than \$500,000 per claimant and \$1,500,000 per occurrence for bodily injury and property damage.

The following coverages shall be included:

Premises and Operations Bodily Injury and Property Damage
Personal and Advertising Injury
Blanket Contractual Liability
Products and Completed Operations Liability

The State of Minnesota shall be named as an Additional Insured

(c) Commercial Automobile Liability Insurance. Subcontractor is required to maintain insurance protecting the Grantee from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under this grant agreement, and in case any work is subcontracted the LGU will require its subcontractors to provide Commercial Automobile Liability. Insurance **minimum** amounts are as follows:

\$2,000,000 -- per occurrence Combined Single limit for Bodily Injury and Property Damage

**For LGUs, the coverage shall be maintained in conformance with the Tort Claims limits set forth in Minn. Stat. Ch. 466, with limits not less than \$500,000 per claimant and \$1,500,000 per occurrence for bodily injury and property damage.

In addition, the following coverages should be included:

Owned, Hired, and Non-owned Automobile

(d) Professional Liability Insurance. This policy will provide coverage for all claims the Grantee, or its subcontractors, may become legally obligated to pay, resulting from any actual or alleged negligent act, error, or omission related to LGU's or its subcontractors' professional services required under this grant agreement.

\$2,000,000 -- per claim or event
\$2,000,000 -- annual aggregate

**For LGUs, the coverage shall be maintained in conformance with the Tort Claims limits set forth in Minn. Stat. Ch. 466, with limits not less than \$500,000 per claimant and \$1,500,000 per occurrence for bodily injury and property damage.

Any deductible of the subcontractor will be the sole responsibility of the subcontractor and may not exceed \$50,000 without the written approval of the State. If the subcontractor desires authority from the State to have a deductible in a higher amount, the subcontractor shall request in writing, specifying the amount of the desired deductible and providing financial documentation by submitting the most current audited financial statements or other approved documentation so that the State can ascertain the ability of the subcontractor to cover the deductible from its own resources.

(e) The retroactive or prior acts date of such coverage shall not be after the effective date of this Agreement and LGU or subcontractor shall maintain such insurance for a period of at least three (3) years, following completion of the work. If such insurance is discontinued, extended reporting period coverage must be obtained by LGU or subcontractor to fulfill this requirement.

17.3 Additional insurance conditions:

- LGU's or subcontractor's policy(ies) or subcontractor's shall be primary insurance to any other valid and collectible insurance available to the State of Minnesota with respect to any claim arising out of the performance under this grant agreement.
- The LGU or subcontractor is responsible for payment of grant agreement-related insurance premiums and deductibles.
- If LGU or subcontractor is self-insured, a Certificate of Self-Insurance must be attached
- Include legal defense fees in addition to liability policy limits, with the exception of 13.2 (d) above.
- Obtain insurance policies from an insurance company having an "AM BEST" rating of A- (minus); Financial Size Category (FSC) VII or better and must be authorized to do business in the State of Minnesota or obtain comparable coverage under a program of self-insurance.
- An Umbrella or Excess Liability insurance policy may be used to supplement the LGU's or subcontractor's policy limits to satisfy the full policy limits required by the grant agreement.
- If LGU or subcontractor receives a cancellation notice from an insurance carrier affording coverage herein, the Grantee agrees to notify the State of Minnesota within five (5) business days with a copy of the cancellation notice, unless LGU's or subcontractor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to the State of Minnesota.

17.4 The State reserves the right to immediately terminate this grant agreement if the LGU or subcontractor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the LGU. All insurance policies must be open to inspection by the State, and copies of policies must be submitted to the State's authorized representative upon written request.

17.5 The Grantee is required to submit a Certificate of Insurance acceptable to the State of Minnesota as evidence of insurance coverage requirements prior to commencing work under this grant agreement.

Signatures

Document Signature Details -- External User

Order	Ext. User	Status	Actual Singer	Name	Title	Date/Time
1	VN0000201630_3	Pending		KRISTINA HANDT		

Document Signature Details -- Internal Users

Order	Type	Role/User	Status	Actual Signer	Name	Title	Date/Time
1	Role	M_FS_WF _SC_DOC_ SIGNER_0 1	Waiting				
2	Role	M_FS_WF _SC_DOC_ SIGNER_0 2	Waiting				