

## **Environmental Services County Board Agenda Staff Report for T 09/18/2018**

**Old Business:**

**New Business:**

- **2019 Natural Resources Block Grant SSTS Grants – approval requested**

**Enclosed Document**

- **2019 NRBG SSTS Program Grant Agreement**

Because of funding source nuances, the subsurface sewage treatment system (SSTS) grant money we receive through the Natural Resources Block Grant (NRBG) for SSTS program operation and the low-income household failing SSTS upgrade grant comes from a different source than the rest of the NRBG funding. Thus, a separate grant agreement (enclosed) for the SSTS funding is required. This agreement provides the \$18,600 we will receive for 2019 SSTS program operation and the \$32,746 we were recently awarded per our application for low-income household failing SSTS upgrade grant funds. I respectfully request the Board's approval of the agreement.

**Other:**

**FY 2019 STATE OF MINNESOTA  
 BOARD OF WATER and SOIL RESOURCES  
 MPCA SSTS PROGRAM GRANT AGREEMENT**

<b>Vendor:</b>	0000197328	<b>VN#:</b>	
<b>PO#:</b>	3000009620	<b>Date Paid:</b>	

This Grant Agreement is between the State of Minnesota, acting through its Board of Water and Soil Resources (Board) and **Hubbard County, 301 Court Ave Park Rapids Minnesota 56470** (Grantee).

<i>This grant is for the following Grant Programs :</i>		
P19-3143	2019 - Septic Treatment Systems - NRBG (Hubbard County)	\$18,600
P19-3222	2019 - Septic Treatment Systems Upgrade - NRBG (Hubbard County)	\$32,746
<b>Total Grant Awarded: \$51,346</b>		

**Recitals**

1. The MPCA transferred to BWSR funds for their 2019 SSTS Programs.
2. Minnesota Statutes 103B.101, subd. 9 (1), and 103B.3369, subd. 5 authorize the Board to award grants.
3. The Grantee has met the criteria established by statute, the Board, and the MPCA and is eligible to receive MPCA SSTS Grant funds.
4. The Grantee represents that it is duly qualified and agrees to perform all services described in this grant contract to the satisfaction of the State.
5. As a condition of the grant, Grantee agrees to minimize administration costs.

**Authorized Representative**

The State's Authorized Representative is Aaron Jensen, MPCA Subsurface Sewage Treatment System Program, 520 Lafayette Road, St. Paul, MN 55155, (651) 757-2544, or his successor. The State's Authorized Representative has the responsibility to monitor the Grantee's performance and the authority to accept the services and performance provided under this Grant Agreement.

The Grantee's Authorized Representative is: **Eric Buitenwerf, Environmental Services Director**  
**301 Court Avenue**  
**Park Rapids, MN 56470**  
**218-732-3890**

If the Grantee's Authorized Representative changes at any time during this Grant Agreement, the Grantee must immediately notify the Board.

**Grant Agreement**

1. **Term of Grant Agreement**
  - 1.1. **Effective date:** The date the Board obtains all required signatures under Minn. Stat. § 16B.98, Subd.5. **The Board will notify the Grantee when this grant agreement has been executed. The Grantee must not begin work under this grant agreement until it is executed.**
  - 1.2. **Expiration date:** **December 31, 2020**, or until all obligations have been satisfactorily fulfilled, whichever comes first.
  - 1.3. **Survival of Terms:** The following clauses survive the expiration or cancellation of this Agreement: 7. Liability; 8. State Audits; 9. Government Data Practices; 11. Governing Law, Jurisdiction, and Venue; 13. Data Disclosure; and 15. Intellectual Property Rights.

## 2. Grantee's Duties

The Grantee will comply with required grants management policies and procedures set forth through Minn. Stat. § 16B.97, Subd. 4(a)(1). The Grantee is responsible for the specific duties for the Program as follows:

2.1 **Reporting:** All data and information provided in a Grantee's report shall be considered public.

2.1.1 The Grantee will submit an annual progress report to the Board by February 1 of each year on the status of program implementation by the Grantee. Information provided must conform to the requirements and formats set by the Board.

2.1.2 The Grantee must display on its website the previous calendar year's detailed information on the expenditure of grant funds and measurable outcomes as a result of the expenditure of funds according to the format specified by the Board, by March 15 of each year.

2.1.1. The Grantee will submit a final progress report to the Board by February 1, 2021. Information provided must conform to the requirements and formats set by the Board.

2.1.2. A late or incomplete annual progress or final report will result in the withholding of any future allocations.

2.2 **Compliance:** The Grantee will comply with Minnesota Rules Chapter 7082.0040 through 7082.0700; and amendments thereto, for Subsurface Sewage Treatment Systems.

## 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. Terms of Payment

4.1. Payment of this grant amount will be made in one installment promptly after execution of the Grant Agreement.

4.2. Any grant funds remaining unspent after the end of the expiration date stated above will be returned to the Board within one month of that date.

4.3. The Board must consult with the state agency responsible for administering the grant program before granting an amendment to the Grant Agreement, or a component thereof.

4.4. The obligation of the State under this Grant Agreement will not exceed the amount stated above for each grant program.

4.5. This grant is an advance payment. Advance payments allow the Grantee to have adequate operating capital for start-up costs, ensure their financial commitment to landowners and contractors, and to better schedule work into the future.

## 5. Conditions of Payment

All services provided by the Grantee under this grant agreement must be performed to the State's satisfaction, as set forth in this agreement. Compliance will be 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.

The Minnesota Department of Administration's Office of Grants Management Policy On Grant Closeout Evaluation (Policy 08 – 13) requires the Board to consider a grant applicant's past performance before awarding subsequent grants to them. The Board must consider a grant applicant's performance on prior grants before making a new grant award of over \$5,000. The Board may withhold payment on this and grants from other programs if the Grantee is not in compliance with all Board reporting requirements.

Minnesota Statutes §103C.401 (2014) establishes BWSR's obligation to assure program compliance. If the noncompliance is severe, or if work under the grant agreement is found by BWSR to be unsatisfactory or performed in violation of federal, state, or local law, BWSR has the authority to require the repayment of grant funds, or an additional penalty. Penalties can be assessed at a rate up to 150% of the grant agreement.

## 6. Assignment, Amendments, and Waiver

6.1. **Assignment.** The Grantee may neither assign nor transfer any rights or obligations under this Grant Agreement without the prior consent of the State and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this Grant Agreement, or their successors in office.

6.2. **Amendments.** Any amendment 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 Agreement, or their successors in office. Amendments must be executed prior to the expiration of the original agreement or any amendments thereto.

6.3. **Waiver.** If the State fails to enforce any provision of this Grant Agreement, that failure does not waive the provision or its right to enforce it.

## **7. 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.

## **8. 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 Board 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.

8.1. The books, records, documents, accounting procedures and practices of the Grantee and its designated local units of government and contractors relevant to this grant, may be examined at any time by the Board or Board's designee and are subject to verification. The Grantee or delegated local unit of government will maintain records relating to the receipt and expenditure of grant funds.

## **9. 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 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.

## **10. 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.

## **11. 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 Agreement, or its breach, must be in the appropriate State or federal court with competent jurisdiction in Ramsey County, Minnesota.

## **12. Termination**

12.1. The State may cancel this Grant Agreement at any time, 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.

12.2. In the event of a lawsuit, an appropriation from a Clean Water Fund is canceled to the extent that a court determines that the appropriation unconstitutionally substitutes for a traditional source of funding.

12.3. The State may immediately terminate this grant contract if the State finds that there has been a failure to comply with the provisions of this grant contract, that reasonable progress has not been made or that the purposes for which the funds were granted have not been or will not be fulfilled. 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.

## **13. 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.

**14. Prevailing Wage**

It is the responsibility of the Grantee or contractor to pay prevailing wages for projects that include construction work of \$25,000 or more, prevailing wage rules apply per Minn. Stat. §§177.41 through 177.44. All laborers and mechanics employed by grant recipients and subcontractors funded in whole or in part with these State funds shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality. Bid requests must state the project is subject to prevailing wage.

**15. Municipal Contracting Law**

Per Minn. Stat. §471.345, grantees that are municipalities as defined in Subd. 1 of this statute must follow the Uniform Municipal Contracting Law. Supporting documentation of the bidding process utilized to contract services must be included in the Grantee’s financial records, including support documentation justifying a single/sole source bid, if applicable.

**16. 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*. 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. 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. The Documents will be the exclusive property of the State and all such Documents must be immediately returned to the State by the Grantee upon completion or cancellation of this grant at the State’s request. 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.

*IN WITNESS WHEREOF, the parties have caused this Grant Agreement to be duly executed intending to be bound thereby.*

Approved:

**Hubbard County**

**Board of Water and Soil Resources**

By: Cal Johannsen  
*(print)*

By: \_\_\_\_\_

\_\_\_\_\_  
*(signature)*

Title: Chairperson, County Board of Commissioners

Title: \_\_\_\_\_

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

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