

**STATE OF MINNESOTA GRANT CONTRACT  
WITH THE BASSETT CREEK WATERSHED MANAGEMENT COMMISSION FOR  
IMPROVED FLOODPLAIN MODELING AND MAPPING**

This grant contract is between the State of Minnesota, acting through its Commissioner of Natural Resources, ("State") and the Bassett Creek Watershed Management Commission (BCWMC), 16145 Hillcrest Lane, Eden Prairie, Minnesota 55346 ("Grantee").

**Recitals**

1. Under Minn. Stat. Section 84.026, Subdivision 2, the State is empowered to enter into this grant agreement.
2. The State agrees that updating and improving floodplain data is in the interest of the State.
3. 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. Pursuant to Minnesota Statutes §16B.98 Subdivision 1, the Grantee agrees to minimize administrative costs as a condition of this grant contract.

**Grant Contract**

**1 Term of Grant Contract**

- 1.1 **Effective date:** February 15, 2018, or the date the State obtains all required signatures under Minnesota Statutes §16C.05, subdivision 2, whichever is later. Per, [Minn.Stat. §16B.98](#) Subd. 7, no payments will be made to the Grantee until this grant contract is fully executed. **The Grantee must not begin work under this grant contract until this contract is fully executed and the Grantee has been notified by the State's Authorized Representative to begin the work.**
- 1.2 **Expiration date:** April 30, 2020, 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 contract: 8. Liability; 9. State Audits; 10. Government Data Practices and Intellectual Property; 13. Publicity and Endorsement; 14. Governing Law, Jurisdiction, and Venue; and 16. Data Disclosure.

**2 Grantee's Duties**

The Grantee, who is not a state employee, will be responsible for tasks summarized below, consistent with Attachment A - *Bassett Creek Watershed Management Commission Scope*, dated January 10, 2018, attached and incorporated into this grant contract:

- Perform hydrologic analyses to calculate peak flood discharges for identified flood events
- Perform hydraulic analyses
- Develop Floodplain, Floodway, and Cross-Section Profiles
- Develop Depth Grids for identified flood events
- Develop Project Narrative describing hydrologic and hydraulic methodologies
- Hold two meetings with the BCWMC technical advisory committee to review modeling results

All work shall comply with required grants management policies and procedures set forth in [Minn.Stat. §16B.97](#), Subd. 4 (a)(1)

**3 Time**

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

## 4 Consideration and Payment

4.1 **Consideration.** The State will reimburse Grantee for all eligible products received and services performed by the Grantee under this grant contract as follows:

(a) **Compensation.** The Grantee will be reimbursed 100% for eligible project expenses, not to exceed \$88,500.00. This grant does not require a local match.

(b) **Travel Expenses.** Grantee shall not be reimbursed for travel and subsistence expenses incurred as a result of this grant contract.

(c) **Total Obligation**

The total obligation of the State for all compensation and reimbursements to the Grantee under this grant contract will not exceed \$88,500.00.

### 4.2. **Payment**

(a) **Invoices/Deliverables**

The State will pay the Grantee after the Grantee submits itemized invoices for deliverables produced or the services actually performed and the State's Authorized Representative accepts the invoices. Invoices must include the billing period of work performed and be submitted timely and with project deliverables. Reimbursement will be made in accordance with the following schedule:

- upon receipt and acceptance of Grantee's hydrologic analysis.
- upon receipt and acceptance of Grantee's hydraulic analysis.
- upon receipt and acceptance of Grantee's floodplain, floodway, and cross-section shape files.
- upon receipt and acceptance of Grantee's depth grids.
- upon receipt of documentation of flood risk review meetings held and development of work maps.
- upon receipt and acceptance of completed project narrative.
- upon receipt of summary of community meetings and invoice for time.

Requested reimbursement amounts for each work task shall not exceed 120% of the amount identified for each work task in the estimated budget contained in Attachment A.

Upon project completion, financial reconciliation will be done to ensure Grantee is reimbursed for all actual costs of services and deliverables, not to exceed \$88,500.00.

(b) **Federal funds**

Payments under this grant contract will be made from federal funds obtained by the State through FEMA Cooperating Technical Partners Program, CFDA number 97.045. The Grantee is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Grantee's failure to comply with federal requirements.

(c) **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 do the following if contracting funds from this grant contract agreement for any supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property

- (a) If the amount of the contract is estimated to exceed \$100,000, a formal notice and bidding process must be conducted in which sealed bids shall be solicited by public notice. Municipalities may, as a best value alternative, award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in [Minn. Stat. §16C.28](#), Subd. 1, paragraph (a), clause (2)
- (b) If the amount of the contract is estimated to exceed \$25,000 but not \$100,000, the contract may be made either upon sealed bids or by direct negotiation, by obtaining two or more quotations for the purchase or sale when possible, and without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof. Municipalities may, as a best value alternative, award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in [Minn. Stat. §16C.28](#), Subd. 1, paragraph (a), clause (2) and paragraph (c).
- (c) If the amount of the contract is estimated to be \$25,000 or less, the contract may be made either upon quotation or in the open market, in the discretion of the governing body. If the contract is made upon quotation it shall be based, so far as practicable, on at least two quotations which shall be kept on file for a period of at least one year after their receipt. Alternatively, municipalities may award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in [Minn. Stat. §16C.28](#), Subd. 1, paragraph (a), clause (2).
- (d) Support 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.
- (e) For projects that include construction work of \$25,000 or more, prevailing wage rules apply per; [Minn. Stat. §§177.41](#) through [177.44](#) consequently, the bid request must state the project is subject to *prevailing wage*. 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. A prevailing wage form should accompany these bid submittals.

## **5 Conditions of Payment**

All services provided by the Grantee under this grant contract 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 Patrick Lynch, Floodplain Hydrologist, Department of Natural Resources, 500 Lafayette Road, St. Paul, Minnesota, 55155, 651-259-5691, [pat.lynych@state.mn.us](mailto:pat.lynych@state.mn.us), or his/her successor, and has the responsibility to monitor the Grantee's performance and the authority to accept or reject the services provided under this grant contract. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Grantee's Authorized Representative is Laura Jester, Administrator, Bassett Creek Watershed Management Commission, 16145 Hillcrest Lane, Eden Prairie, Minnesota 55346, (952) 270-1990, [laura.jester@keystonewaters.com](mailto:laura.jester@keystonewaters.com) . If the Grantee's Authorized Representative changes at any time during this grant contract, the Grantee must immediately notify the State.

## **7 Assignment, Amendments, Waiver, and Grant Contract Complete**

- 7.1 **Assignment.** The Grantee shall neither assign nor transfer any rights or obligations under this grant contract without the prior written consent of the State, approved by the same parties who executed and approved this grant contract, or their successors in office.
- 7.2 **Amendments.** Any amendments to this grant contract 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 **Waiver.** If the State fails to enforce any provision of this grant contract, that failure does not waive the provision or the State's right to enforce it.
- 7.4 **Grant Contract Complete.** This grant contract contains all negotiations and agreements between the State and the Grantee. No other understanding regarding this grant contract, 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 contract 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 contract.

## **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**

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 contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Grantee under this grant contract. 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.

**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 Prevailing Wages**

Grantee agrees to comply with all of the applicable provisions contained in Chapter 177 of the Minnesota Statutes, and specifically those provisions contained in Minn. Stat. §§ 177.41 through 177.435, as they may be amended, modified or replaced from time to time with respect to the Project.

**13 Publicity and Endorsement**

*12.1 Publicity*

Any publicity regarding the subject matter of this grant contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. 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 contract. All projects primarily funded by state grant appropriation 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.

**14 Governing Law, Jurisdiction, and Venue**

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

**15 Termination**

*15.1 Termination by the State.* The State 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.

*15.2 Termination for Cause.* 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.

**16 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.

**1. STATE ENCUMBRANCE VERIFICATION**

*Individual certifies that funds have been encumbered as required by Minn. Stat. §§16A.15 and 16C.05.*

Signed: Felicia Barnes

Date: 2/7/2018

SWIFT Contract/PO No(s). 137682/3000127457

**3. STATE AGENCY**

*Individual certifies the applicable provisions of Minn. Stat. §16C.08, subdivisions 2 and 3 are reaffirmed.*

By: \_\_\_\_\_  
*(with delegated authority)*

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

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

**2. GRANTEE**

The Grantee certifies that the appropriate person(s) have executed the grant contract on behalf of the Grantee as required by applicable articles, bylaws, resolutions, or ordinances.

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

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

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

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

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

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

Distribution:  
Agency  
Grantee  
State ' s Authorized Representative - Photo Copy