



Please note the meeting will be held in the County Board Room at the Carver County Government Center, 600 East 4th Street, Chaska, MN.

# LOWER MINNESOTA RIVER WATERSHED DISTRICT

## Executive Summary for Action

Lower Minnesota River Watershed District Board of Managers Meeting  
Wednesday, October 24, 2018

### **Agenda Item**

#### **Item 4. E. - Lower Minnesota River Dredge Management Grant Agreement**

### **Prepared By**

Linda Loomis, Administrator

### **Summary**

BWSR has prepared a grant agreement for the State bonding money the LMRWD received in the 2017 legislative session. The Board should authorize execution.

### **Attachments**

FY 2018 and FY 2019 State of Minnesota Board of Water and Soil Resources/ Lower Minnesota River Dredge Management Grant Agreement

### **Recommended Action**

Motion to authorize execution of Grant Agreement

**FY 2018 and FY 2019 STATE OF MINNESOTA  
BOARD OF WATER and SOIL RESOURCES  
LOWER MINNESOTA RIVER DREDGE MANAGEMENT  
GRANT AGREEMENT**

<b>Vendor:</b>	0000201935	<b>VN#:</b>	
<b>PO#:</b>	3000009541	<b>Date Paid:</b>	

This grant agreement is between the State of Minnesota, acting through its Board of Water and Soil Resources (Board) and **Lower Minnesota River WD, 10901 Riverview Road Eden Prairie Minnesota 55347** .

*This grant is for the following Grant Programs :*

P19-2574	2019 - Lower MN River Dredge Management (Lower Minnesota River WD)	\$480,000
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**Total Grant Awarded: \$480,000**

**Recitals**

1. The Laws of Minnesota 2017, Regular Session, Chapter 93, Article 1, Section 4(l), appropriates funding to BWSR for a grant to the Lower Minnesota River Watershed District for dredge management on the lower Minnesota River.
2. The Board has adopted the Lower Minnesota River Watershed District Dredge Management Grant, Board Resolution #17-81 to authorize and allocate this grant.
3. The Grantee has submitted BWSR approved work plans for this grant, which is incorporated into this agreement.
4. The Grantee represents that it is duly qualified to receive this grant and agrees to perform all services described in this Grant Agreement to the satisfaction of the State.
5. The Grantee agrees to expend any required non-state match.
6. As a condition of the grant, Grantee agrees to minimize administration costs.

**Authorized Representative**

The State's Authorized Representative is Steve Christopher, Board Conservationist, BWSR, 520 Lafayette Road North, Saint Paul, MN 55155, 651-296-2633, or his successor, and 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: **TITLE**  
**ADDRESS**  
**CITY**  
**TELEPHONE NUMBER**

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 State 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. Publicity and Endorsement; 12. Governing Law, Jurisdiction, and Venue; 14. Data Disclosure; and 18. 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. **General:** The Grantee will provide administration and necessary support for the operations of the Lower Minnesota River Watershed District and the implementation of its business plan.
- 2.2. **Reporting:** All data and information provided in a Grantee's report shall be considered public.
  - 2.2.1. The Grantee will submit an annual progress report to the Board by February 1 of each year on the status of the Grantees' grant activities and expenditures. The Grantee will also provide an annual activity and expenditure report on their website. Information provided must conform to the requirements and formats set forth by the Board.
  - 2.2.2. Final Progress Report: The Grantee will submit a final progress report to the Board by February 1, 2021, or within 30 days of expenditure of all grant funds, whichever occurs sooner. Information provided must conform to the requirements and formats set by the Board.

### 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. All FY 2018 and FY 2019 Grant funds will be distributed in one installment promptly after the execution of the Grant Agreement.
- 4.2. All costs must be incurred within the grant period and all incurred costs must be paid before the amount of unspent grant funds is determined.
- 4.3. The obligation of the State under this Grant Agreement will not exceed the amount stated above.

### 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, policies, ordinances, rules, and regulations. All Grantees must follow the Grants Administration manual policy, procedure, and guidance. 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.

**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**

For projects that include construction work of \$25,000 or more, prevailing wage laws apply and it is the responsibility of the Grantee or contractor follow the law 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.

**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.

