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| Minnesota Pollution Control Agency (MPCA), 520 Lafayette Road North, St. Paul, MN 55155-4194 | Grant Agreement  **State of Minnesota**  Doc Type: Contract/Grant Reference | | |
| SWIFT Contract number: | | | |  |
|  | | | AI: |  |
|  | | | Activity ID: |  |

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, Minnesota 55155-4194 (“MPCA” or “State”), and *name and address* ("Grantee"). (Note: All Minnesota Statute references can be found on the Minnesota Office of the Revisor of Statutes website at <https://www.revisor.mn.gov/>.)

## Recitals

1. Under Minn. Stat. § 116.03, subd. 2, the State is empowered to enter into this grant.
2. The State is in need of the *project name*
3. Grantee will comply with required grants management policies and procedures set forth through [Minn. Stat. § 16B.97](https://www.revisor.mn.gov/statutes/?id=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](https://www.revisor.mn.gov/statutes/?id=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. ***Effective date: start date***, Per [Minn. Stat.§16B.98](https://www.revisor.mn.gov/statutes/?id=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](https://www.revisor.mn.gov/statutes/?id=16B.98), subd. 7, no payments will be made to the Grantee until this grant agreement is fully executed.
   2. ***Expiration date: end date***, or until all obligations have been satisfactorily fulfilled, whichever occurs first.
   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.
2. **Grantee’s duties**

The Grantee, who is not a state employee, will perform the duties specified in **Attachment A**, which is attached and incorporated into this grant agreement.

1. **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.

1. **Distribution**

The State will provide x gallons of Perfluoroalkyl Substances (PFAS) concentrate upon execution of this agreement.

1. **Reporting**

Final Report. Within four weeks following receipt of final laboratory results, Grantee shall submit a Final Report of the destructive test to the MPCA. The Final Report shall describe, in detail, the destructive test procedure, destruction efficiencies for all PFAS parameters, other analyses necessary to demonstrate destruction effectiveness or efficiency (e.g. water quality parameters) and potential reaction byproduct formation.

The Final Report shall provide analytical procedures including the 40 PFAS parameters provided below, total organic fluorine (TOF) or adsorbable organic fluorine (AOF) analysis, pre-test, intermediate test and posttest analytical results, Quality Assurance (QA)/Quality Control (QC) procedures and any PFAS transformation or terminal products and their concentrations that were not destroyed in the destructive test. The Final Report shall include energy consumption requirements per test or at full-scale (e.g. $/gal of treated concentrate).

If the destructive test is terminated prior to the scheduled completion, the Final Report shall also discuss the conclusions that led to the termination of the test, results achieved on all tasks completed and recommendations on how future tests could incorporate or manage the issues leading to termination of the test.

If the MPCA determines that the information submitted in the Final Report is inadequate, the Grantee shall prepare and submit additional information reasonably requested by the MPCA.

Executive Summary. At the same time the Final Report is submitted, the Grantee must also submit an Executive Summary of the destructive test and its results. The summary will be used in reports and to disseminate information on the outcomes and environmental benefits of the destructive test project.

1. **Conditions of distribution**

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 Representativeand in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations.

1. **Authorized Representative**

The State's Authorized Representative is *name, address, phone, email* or his successor, and has the authority to monitor the Grantee’s performance and to accept the services provided under this agreement.

The Grantee’s Authorized Representative is *name, address, phone, email* or their successor. If the Grantee’s Authorized Representative changes at any time during this grant agreement, the Grantee must immediately notify the State.

1. **Assignment, Amendments, Change Orders, Waiver, and Grant Agreement complete**

8.1 ***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.

8.2 ***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 agreement, or their successors in office.

8.3 ***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 Contract/Agreement, or cause an extension of the term of this Agreement. Major changes require an Amendment 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 Agreement. The MPCA has the sole discretion on the determination of whether a requested change is a Change Order or an Amendment. The state reserves the right to refuse any Change Order requests.

8.4 ***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.

8.5 ***Grant Agreement 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.

1. **Indemnification**

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.

1. **Insurance Requirements**

Exhibit A Insurance Requirements is attached and incorporated into this Agreement.

1. **Government data practices and intellectual property**

11.1 ***Government data practices***. The Grantee and State must comply with the Minnesota Government Data Practices Act, [Minn. Stat. Ch. 13](https://www.revisor.mn.gov/statutes/cite/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](https://www.revisor.mn.gov/statutes/cite/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.

11.2 ***Intellectual property rights***

The Grantee shall own 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. Works shall mean all inventions, improvements or discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks, conceived, reduced to practices, created or originated by the grantee, its employees, and subcontractors, either individually or jointly with others, in the performance of the contract. Works shall include the documents. The documents are the originals of any databases, computer programs, reports, notes, or other materials and documents, whether intangible or electronic forms, prepared by the Grantee, its employees, or subcontractors, in the performance of this Grant Contract Agreement. The documents shall be the exclusive property of the Grantee. The State agrees to, and hereby does, assign all rights, title, and interest it may have in the works and the documents to the Grantee. The State shall, at the request of the Grantee, execute all papers and perform all other acts necessary to transfer or record the Grantee’s ownership interest in the works and the documents.

11.3 ***Obligations***

The Grantee represents and warrants to the State that the works and documents do not and shall not infringe upon any intellectual property rights of others. The Grantee shall indemnify, defend 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 intellectual property rights of others. The Grantee shall 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 the Grantee or State’s opinion is likely to arise, the Grantee shall, at the State’s discretion, either attempt to procure for the State on commercially reasonable terms 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 shall be in addition to and shall not be exclusive to other remedies provided by law. Nothing in this Article 10.3 shall constitute or be construed to constitute a waiver by either the State or the Grantee of the sovereign immunity of each party from certain suits or remedies relating to infringement claims. Grantee may assert the immunities of the State in connection with Grantee’s defense of any infringement claim brought against the State. The State shall reasonably cooperate with the Grantee in connection with the Grantee’s defense of any claim or suit, and the State shall discontinue use of any allegedly infringing works or documents at Grantee’s reasonable request.

11.4 ***License to State***

Subject to the terms and conditions of this grant contract agreement, the Grantee hereby grants to the State a perpetual, irrevocable, no-fee right and license to make, have made, reproduce, modify, distribute, perform, and otherwise use the works and documents for any and all purposes, in all forms and manners that the State, in its sole discretion, deems appropriate. The Grantee shall, upon the request of the State, execute all papers and perform all other acts necessary, to document and secure said right and license to the works and documents by the State. At the request of the State, the Grantee shall permit the State to inspect the original documents and provide a copy of any of the documents to the State, without cost, for use by the state in any manner the State, in its sole discretion, deems appropriate.

11.5 ***Survivability***

The rights and duties of the State and the Grantee, provided for above, shall survive the expiration or cancellation of this grant contract agreement.

1. **Workers’ compensation**

The Grantee certifies that it is in compliance with [Minn. Stat. § 176.181](https://www.revisor.mn.gov/statutes/cite/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.

1. **Publicity and endorsement**

13.1 ***Publicity***. Any publicity regarding the subject matter of this grant agreement 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 agreement. All projects primarily funded by state grant appropriations must publicly credit the State of Minnesota, including on the grantee’s website when practicable.

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

1. **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.

1. **Termination**
   1. ***Termination by the State.*** The State may immediately terminate this grant agreement 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.
   2. ***Termination for cause.***The State may immediately terminate this grant agreement if the State finds that there has been a failure to comply with the provisions of this grant agreement, 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.
   3. ***Termination for insufficient funding****.* The State may immediately terminate this grant agreement if:
2. It does not obtain funding from the Minnesota Legislature.
3. 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 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.
4. **Data disclosure**

Under [Minn. Stat. § 270C.65](https://www.revisor.mn.gov/statutes/cite/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.

To protect Grantee’s personal data, Grantee is strongly encouraged to obtain and use a Minnesota tax identification number.

**Exhibit A: Insurance Requirements**

**1. Notice to Grantee**

1.1 The Grantee is required to submit Certificates of Insurance acceptable to the State as evidence of insurance coverage requirements prior to commencing work under this Agreement.

1.2 Grantee shall not commence work under the Agreement until they have obtained all the insurance described below and the State has approved such insurance. Grantee shall maintain such insurance in force and effect throughout the term of this Agreement.

1.3 The failure of the Grantee to provide a Certificate of Insurance, for the policies required under this Agreement or renewals thereof, or failure of the insurance company to notify the State of the cancellation of policies required under this Agreement shall not constitute a waiver by the State to the Grantee to provide such insurance.

1.4 The State reserves the right to immediately terminate this Agreement if the Grantee is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the Grantee. 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.

**2. Notice to Insurer**

2.1 The Grantee’s insurance company(ies) waives its right to assert the immunity of the State as a defense to any claims made under said insurance.

2.2 Insurance certificate holder should be addressed as follows:

MPCA

520 Lafayette Road N

St. Paul, MN 55155

**3. Additional Insurance Conditions. The following apply to the Grantee, or the Grantee’s subcontractor:**

3.1 Grantee’s policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State with respect to any claim arising out of Grantee’s performance under this Agreement.

3.2 If Grantee receives a cancellation notice from an insurance carrier affording coverage herein, Grantee agrees to notify the State within five (5) business days with a copy of the cancellation notice, unless Grantee’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;

3.3 Grantee is responsible for payment of Agreement related insurance premiums and deductibles;

3.4 If Grantee is self-insured, a Certificate of Self-Insurance must be attached;

3.5 Grantee’s policy(ies) shall include legal defense fees in addition to its policy limits with the exception of professional liability.

3.6 Grantee’s insurance companies must either (1) have an AM Best rating of A- (minus) and a Financial Size Category of VII or better, and be authorized to do business in the State of Minnesota or (2) be domiciled in the State of Minnesota and have a Certificate of Authority/Compliance from the Minnesota Department of Commerce if they are not rated by AM Best.

3.7 An Umbrella or Excess Liability insurance policy may be used to supplement the Grantee’s policy limits to satisfy the full policy limits required by the Agreement.

**4. Coverages. Grantee is required to maintain and furnish satisfactory evidence of the following insurance policies**:

4.1 Commercial General Liability Insurance. Grantee 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 the Agreement whether the operations are by the Grantee or by a subcontractor or by anyone directly or indirectly employed by the Grantee under the contract. Insurance minimum limits are as follows:

$2,000,000 – per occurrence

$2,000,000 – annual aggregate

$2,000,000 – annual aggregate – applying to Products/Completed Operations

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

• Other; if applicable, please list\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

• State of Minnesota named as an Additional Insured, to the extent permitted by law

4.2 Commercial Automobile Liability Insurance. Grantee is required to maintain insurance protecting it 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 the Agreement, and in case any work is subcontracted the Grantee will require the subcontractor to maintain Commercial Automobile Liability insurance. Insurance minimum limits are as follows:

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

In addition, the following coverages should be included: Owned, Hired, and Non-owned Automobile.

Evidence of Subcontractor insurance shall be filed with the Grantee.

4.3 Workers’ Compensation Insurance. Statutory Compensation Coverage. Except as provided below, Grantee must provide Workers’ Compensation insurance for all its employees and, in case any work is subcontracted, Grantee will require the subcontractor to provide Workers’ Compensation insurance in accordance with the statutory requirements of the State, including Coverage B, Employer’s Liability. Insurance minimum limits 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 Grantee from Workers’ Compensation insurance or if the Grantee has no employees in the State, Grantee must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Grantee from the Minnesota Workers’ Compensation requirements.

If during the course of the contract the Grantee becomes eligible for Workers’ Compensation, the Grantee must comply with the Workers’ Compensation Insurance requirements herein and provide the State with a certificate of insurance.

4.4 Professional Liability, Errors, and Omissions. This policy will provide coverage for all claims the Grantee may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Grantee’s professional services required under the contract. Insurance minimum limits are as follows:

$2,000,000 - per claim or event

$2,000,000 - annual aggregate

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

The retroactive or prior acts date of such coverage shall not be after the effective date of this Agreement and Grantee 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 Grantee to fulfill this requirement.

4.5 Property of Others Insurance (or equivalent). The Grantee shall maintain a Property insurance policy covering “All Risk” of direct physical loss or damage, or equivalent, including the perils of theft, flood, transit, earthquake, and pollution clean-up expense for property owned by the state that is in the Grantee’s care, custody, and control. Any deductible shall be the sole responsibility of the Grantee. Insurance minimum limits are as follows: The Grantee is solely responsible for the coverage equal to that of the actual cash value of state-owned property in the Grantee’s care, custody, and control at any given point in time.

4.6 Pollution Liability Insurance: Grantee’s Pollution Liability (or equivalent pollution liability coverage endorsed on another form of liability coverage, such as general liability or professional errors and omissions policy).

a. Minimum Limits of Liability:

i. $2,000,000 – Per Claim

ii. $2,000,000 – Annual Aggregate

b. Coverages:

i. Policy will include Non-Owned Disposal Site Pollution Liability.

ii. Policy will not contain a lead exclusion.

iii. Owner named as an Additional Insured.

iv. Waiver of subrogation in favor of the State of Minnesota

Signatures