

**STATE OF MINNESOTA
PROFESSIONAL AND TECHNICAL SERVICES
MASTER JOINT POWERS AGREEMENT**

This Master Joint Powers Agreement (MJPA) is between the State of Minnesota, acting through its Board of Water and Soil Resources (BWSR a.k.a."State") and _____ Soil and Water Conservation District ("SWCD"), [address].

Recitals

1. Under Minnesota Statute § 15.061 and § 471.59, subdivision 10, the State is empowered to engage such assistance as deemed necessary.
2. The State is in need of assistance at the local level to effectively and accurately to landowners to implement practices that conserve water and soil. Conservation measures on private lands will benefit the public by reducing erosion, sedimentation, siltation, pollution.
3. Per Rule 8400.3000 through 8400.3930 the State is directed to work with SWCDs to implement the RIM Reserve Program.
4. The SWCD represents that it is duly qualified and agrees to perform all services described in this MJPA and performed under a Work Order Contract to the satisfaction of the State.

Master Joint Powers Agreement

1 Term of Master Agreement

- 1.1 **Effective Date:** February 1, 2017, or the date the State obtains all required signatures under Minnesota Statute § 16C.05, subdivision 2, whichever is later.
The SWCD must not accept work under this MJPA until it is fully executed and the SWCD has been notified by the State's Authorized Representative that it may begin accepting Work Order Contracts.
- 1.2 **Work Order Contracts.** The term of work for Work Order Contracts issued under this MJPA may not extend beyond the expiration date of this MJPA.
- 1.3 **Expiration Date:** January 31, 2022.
- 1.4 **Survival of Terms.** The following clauses survive the expiration or cancellation of this MJPA and all Work Order Contracts: 7. Indemnification; 8. State Audits; 9. Government Data Practices and Intellectual Property; and, 10. Governing Law, Jurisdiction, and Venue.

2 Scope of Work

The SWCD, who is not a state employee, may be requested to perform any of the following services under a Work Order Contract:

SWCD duties related to easement delivery include:

Easement Delivery

- Market the programs.
- Attend training sessions.
- Assist landowners in completing applications for funding of easement.
- Conduct screening committee meetings (when applicable).
- Perform on-site investigations and surveys.
- Perform courthouse searches (when required).
- Conduct regularly scheduled inspections of completed easements. Report on findings, and perform corrective actions and associated enforcement as described in program guidance.

SWCD duties related to acquisition include:

Phase 1: Funded application through title clearing

- Obtain landowner signatures on the Reinvest in Minnesota (RIM) Agreement for Conservation Easement and forward to the State.
- Assemble Agreement Package Information and send to BWSR.
- Order legal boundary survey, if necessary.

- Coordinate with landowner to ensure delivery of updated abstracts to the title agent.
- Hire, direct and pay for services provided by title agent.
- Receive and review title commitment and associated documents.
- Coordinate with landowner to ensure objectionable exceptions appearing on the title commitment are cleared to the satisfaction of the State.

Phase 2: Title clearing through easement recording

- Obtain landowner signatures on the RIM Conservation Easement.
- Deliver signed original easement to the title agent, provide instruction to title agent regarding gap check and recording.
- Receive and review title policies from title agent.
- Pay title agents and submit documentation to the State for reimbursement.
- Install boundary posts and signs.

Phase 3: Preparation and implementation of conservation plan

- Field inventory and evaluation.
- Develop conservation plan with landowner.
- Develop seeding and maintenance plan.
- Reference wetland construction plan when appropriate.
- Plan implementation assistance to landowners.
- Complete and submit applicable forms for payment.
- Provide plan implementation assistance to landowner.
- Field inspections as necessary.

SWCD duties related to technical assistance with wetland restorations include:

Plan Development

- Perform topo survey/site assessment for simple project design
- OR
- Assist in topo survey/site assessment for complex projects

Construction Implementation

- staking/layout
- construction oversight
- final quantity checks
- as-built plans

The SWCD understands that only the receipt of a fully executed Work Order Contract authorizes the SWCD to begin work under this MJPA. Any and all effort, expenses, or actions taken before the Work Order Contract is fully executed is not authorized under Minnesota Statutes and is undertaken at the sole responsibility and expense of the SWCD. A sample Work Order Contract is attached and incorporated into this MJPA as Exhibit A.

The SWCD understands that this MJPA is not a guarantee of a Work Order Contract. The State has determined that it may have need for the services under this MJPA, but does not commit to spending any money with the SWCD.

3 Time

The SWCD must comply with all the time requirements described in Work Order Contract. In the performance of Work Order Contract, time is of the essence.

4 Consideration and Payment

4.1 **Consideration.** The total of all Work Order Contracts will not exceed \$17,000,000.00. The State will pay for all services satisfactorily performed by the SWCD for all Work Order Contracts issued under this MJPA. The total compensation for an Individual Work Order Contract will not exceed \$100,000.

Easement Delivery – per easement, paid annually	\$ 50
Phase 1	\$1,000
Phase 2	\$ 500
Phase 3	\$ 500
Technical Assistance –	
Restoration Plan Development	500
Construction Implementation – Extensive role; simple project	1,500
Construction Implementation – Extensive role; complex project	3,000

Reimbursable Costs – Title insurance costs associated with preparing and examining the title commitment, recording fees, and issuance of final policy and associated premium are reimbursable upon the State’s receipt and approval of the recorded RIM Conservation Easement and the final title insurance policy. Postage for mailing easement related documents is also reimbursable. The SWCD will submit for reimbursement using guidance and forms available on the Board of Water and Soil Resources (BWSR) website.

Payment for Easement Delivery will be calculated by the State and paid annually; no reimbursement request is necessary for this payment.

Payment requests for Phases 1 through 3 may not be submitted until the easement acquisition is complete, or the easement cancels. **Requests will be submitted during the months of February, May, August and November.** Reimbursement requests for costs including but not limited to title insurance obtained on behalf of the State, and signs and posts may not be submitted until the easement acquisition is complete. Reimbursement requests for Technical Assistance may be made upon delivery and acceptance of the conservation plan and/or construction implementation.

4.2 Payment

- A) **Invoices:** All services provided by the SWCD under a Work Order 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. SWCDs will request reimbursement for work completed, using a BWSR developed invoice available on the BWSR website.

The SWCD will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

5 Authorized Representatives and Project Managers

The State's Authorized Representative for this master contract is William L. Penning, Conservation Easement Section Manager, Phone: 651-539-2567 or his/her successor, and has the responsibility to monitor the SWCD’s performance.

The State’s Project Manager will be identified in each Work Order Contract.

The SWCD's Authorized Representative is [NAME, TITLE, ADDRESS, TELEPHONE NUMBER]. If the SWCD’s Authorized Representative changes at any time during this MJPA, the SWCD must immediately notify the State.

The SWCD’s Project Manager will be identified in each Work Order Contract.

6 Assignment, Amendments, Waiver, and Contract Complete

- 6.1 **Assignment.** The SWCD may neither assign nor transfer any rights or obligations under this MJPA or any Work Order Contract 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 MJPA, or their successors in office.
- 6.2 **Amendments.** Any amendment to this MJPA or any Work Order 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 contract, or their successors in office.
- 6.3 **Waiver.** If the State fails to enforce any provision of this master agreement or any Work Order Contract, that failure does not waive the provision or its right to enforce it.
- 6.4 **Contract Complete.** This MJPA and any Work Order Contract contain all negotiations and agreements between the State and the SWCD. No other understanding regarding this MJPA or Work Order Contract, whether written or oral, may be used to bind either party.

7 Indemnification

In the performance of this MJPA by SWCD, or SWCD's agents or employees, the SWCD must indemnify, save, and hold harmless the State, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by the state, to the extent caused by SWCD's:

- 1) Intentional, willful, or negligent acts or omissions; or
- 2) Actions that give rise to strict liability; or
- 3) Breach of contract or warranty.

The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the State's sole negligence. This clause will not be construed to bar any legal remedies the SWCD may have for the State's failure to fulfill its obligation under this MJPA.

8 State Audits

Under Minnesota Statute § 16C.05, subdivision 5, the SWCD's books, records, documents, and accounting procedures and practices relevant to any Work Order Contract 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 MJPA.

9 Government Data Practices

The SWCD and State must comply with the Minnesota Government Data Practices Act, Minnesota Statute Ch. 13, as it applies to all data provided by the State under any Work Order Contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the SWCD under the Work Order Contract. The civil remedies of Minnesota Statute § 13.08 apply to the release of the data referred to in this clause by either the SWCD or the State.

If the SWCD receives a request to release the data referred to in this Clause, the SWCD must immediately notify the State. The State will give the SWCD instructions concerning the release of the data to the requesting party before the data is released.

10 Governing Law, Jurisdiction, and Venue

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.

11 Termination

11.1 **Termination by the State.** The State or Commissioner of Administration may cancel this MJPA and any Work Order Contract at any time, with or without cause, upon 30 days' written notice to the SWCD. Upon termination, the SWCD will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

11.2 **Termination for Insufficient Funding.** The State may immediately terminate this MJPA and any Work Order Contract if it does not obtain funding from the Minnesota legislature or other funding source; 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 SWCD. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the SWCD 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 MJPA or Work Order Contract is terminated because of the decision of the Minnesota legislature or other funding source, not to appropriate funds. The State must provide the SWCD notice of the lack of funding within a reasonable time of the State's receiving that notice.

12 E-Verify Certification (In accordance with Minn. Stat. §16C.075)

For services valued in excess of \$50,000, SWCD certifies that as of the date of services performed on behalf of the State, SWCD will have implemented or be in the process of implementing the federal E-Verify program for all newly hired employees in the United States who will perform work on behalf of the State. SWCD is responsible for collecting all SWCD certifications and may do so utilizing the E-Verify SWCD Certification Form available at <http://www.mmd.admin.state.mn.us/doc/EverifySubCertForm.doc>. All SWCD certifications must be kept on file with SWCD and made available to the State upon request.

1. CONTRACTOR (_____ SWCD)
The Contractor certifies that the appropriate person(s) have executed the Contract on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

Print name: _____

Signature: _____

Title: _____ Date: _____

Print name: _____

3. COMMISSIONER OF ADMINISTRATION
As delegated to Materials Management Division

By: _____

Date: _____

2. STATE AGENCY
With delegated authority

Print name: _____

Signature: _____

Title: _____ Date: _____

Exhibit A

STATE OF MINNESOTA PROFESSIONAL AND TECHNICAL SERVICES WORK ORDER CONTRACT

This Work Order Contract is between the State of Minnesota, acting through its Board of Water and Soil Resources (BWSR a.k.a. "State") and _____ ("SWCD"). This Work Order Contract is issued under the authority of Master Joint Powers Agreement (MJPA) T-Number _____, SWIFT Number _____, and is subject to all provisions of the MJPA which is incorporated by reference.

Work Order Contract

1 Term of Contract

1.1 **Effective date:** *February 1, 2017*, or the date the State obtains all required signatures under Minnesota Statute § 16C.05, subdivision 2, whichever is later.

The SWCD must not begin work under this Work Order Contract until it is fully executed and the SWCD has been notified by the State's Authorized Representative to begin the work.

1.2 **Expiration date:** *January 31, 2022*, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

2 SWCD's Duties

Easement Delivery

Market the programs. Attend training sessions. Assist landowners in completing applications for funding of easement. Conduct screening committee meetings (when applicable). Perform on-site investigations and surveys. Perform courthouse searches (when required). Conduct regularly scheduled inspections of completed easements. Report on findings, and perform corrective actions and associated enforcement as described in program guidance.

Phase 1: Funded application through title clearing

Obtain landowner signatures on the Reinvest in Minnesota (RIM) Agreement for Conservation Easement and forward to the State. Assemble Agreement Package Information and send to BWSR. Order legal boundary survey, if necessary. Coordinate with landowner to ensure delivery of updated abstracts to the title agent. Hire, direct and pay for services provided by title agent. Receive and review title commitment and associated documents. Coordinate with landowner to ensure objectionable exceptions appearing on the title commitment are cleared to the satisfaction of the State.

Phase 2: Title clearing through easement recording

Obtain landowner signatures on the RIM Conservation Easement. Deliver signed original easement to the title agent, provide instruction to title agent regarding gap check and recording. Receive and review title policies from title agent. Install boundary posts and signs.

Phase 3: Preparation and implementation of conservation plan

Field inventory and evaluation. Develop conservation plan with landowner. Develop seeding and maintenance plan. Reference wetland construction plan when appropriate. Plan implementation assistance to landowners. Complete and submit applicable forms for payment. Provide plan implementation assistance to landowner. Field inspections as necessary.

Plan Development for Wetland Restorations

Perform topo survey/site assessment for simple project design **OR** Assist in topo survey/site assessment for complex projects.

Construction Implementation for Wetland Restorations

Staking/layout. Construction oversight. Final quantity checks. As-built plans.

3 Consideration and Payment

3.1 **Consideration.** The State will pay for all services performed by the SWCD under this Work Order Contract as follows:

(A) **Compensation.** The SWCD will be paid up to \$[100,000.00].

(B) **Total Obligation.** The total obligation of the State for all compensation and reimbursements to the SWCD under this Work Order Contract will not exceed \$[100,000.00].

3.2. **Invoices.** The SWCD will prepare and submit invoices for payment using the State’s invoice template (Exhibit B, available on BWSR’s website) for the services actually performed. The State will promptly pay the SWCD upon receipt and approval by the State’s Authorized Representative. **Invoices will be accepted only during the months of February, May, August and November of each year during the life of the contract.**

4 Project Managers

The State's Project Manager is William L. Penning at 651-539-2567. The State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The SWCD's Project Manager [_____], or his/her assign. If the SWCD’s Project Manager changes at any time during this Work Order Contract, the SWCD must immediately notify the State.

5 E-Verify Certification (In accordance with Minn. Stat. §16C.075)

For services valued in excess of \$50,000, SWCD certifies that as of the date of services performed on behalf of the State, SWCD will have implemented or be in the process of implementing the federal E-Verify program for all newly hired employees in the United States who will perform work on behalf of the State. SWCD is responsible for collecting all SWCD certifications and may do so utilizing the E-Verify SWCD Certification Form available at <http://www.mmd.admin.state.mn.us/doc/EverifySubCertForm.doc>. All SWCD certifications must be kept on file with SWCD and made available to the State upon request.

SIGNATURES AS REQUIRED BY THE STATE.

1. STATE ENCUMBRANCE VERIFICATION

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

Signed: _____

Date: _____

CFMS Contract No. A-_____

3. STATE AGENCY

By: _____
(with delegated authority)

Title: _____

Date: _____

2. CONTRACTOR

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

By: _____

Title: _____

Date: _____

EXHIBIT B

INVOICE

RIM/CREP EASEMENT DELIVERY SERVICES REIMBURSABLE RIM/CREP EXPENSES AND WETLAND RESTORATION TECH ASSISTANCE

Click here to enter text.SWCD

Part A -- Easement Delivery Services

\$ 50

Enter easement number(s) here or attach a list labeled 'Part A'

Easement #(s) [Click here to enter text.](#)

Part B -- Easement Acquisition Services

Phase 1: Funded application through title clearing

\$1,000

Phase 2: Title clearing through easement recording

\$ 500

Phase 3: Preparation and implementation of conservation plan

\$ 500

Enter easement number(s) here or attach a list labeled 'Part B'

Easement #(s) [Click here to enter text.](#)

Part C - Technical Assistance

Restoration Plan Development

check only one

SWCD performs topo survey/site assessment – simple project

\$1,500

SWCD assists in topo survey/site assessment – complex project

Construction Implementation

(staking/layout, oversight, inspection, final check, as-built plan)

check only one

SWCD provides extensive role in simple project

\$1,500

SWCD assists project manager in complex project

SWCD plays extensive role in complex project

\$3,000

Enter easement number(s) here or attach a list labeled 'Part C'

Easement #(s) [Click here to enter text.](#)

SWCD Representative

Date

BWSR Engineering Approval

Date

BWSR Easement Section Approval

Date