

2011Em020  
PRESENTED: 12-28-11  
ADOPTED: 12-28-11

## RESOLUTION AUTHORIZING THE S2 GRANT AGREEMENT

### BY THE EMERGENCY MANAGER:

**WHEREAS**, Part 52 (strategic water quality initiatives) of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended ("Part 52"), provides at MCL 324.5204a that the Michigan Finance Authority (the "MFA") in consultation with the Michigan Department of Environmental Quality (the "DEQ") shall establish a strategic water quality initiatives grant program; and

**WHEREAS**, in accordance with the provisions of 2010 PA 231, which provides grants to assist municipalities in completing loan application requirements under MCL 324.5308 or completing loan application requirements for other sources of financing for sewage treatment works projects, storm water treatment projects or nonpoint source projects; and

**WHEREAS**, in accordance with the provisions of 1985 PA 227, as amended, Part 52, and other applicable provisions of law, the MFA, the DEQ, and the Municipality that is a grant recipient shall enter into a grant agreement (the "S2 Grant Agreement") that requires the Municipality to repay the grant under certain conditions as set forth in MCL 324.5204a, as amended; and

**WHEREAS**, the Municipality does hereby determine it necessary to undertake planning, revenue system development, and/or design activities related to a project for which it intends to seek financing for construction; and

**WHEREAS**, it is the determination of the Municipality that at this time, a grant in the aggregate principal amount not to exceed \$800,000 ("Grant") be requested from the MFA and the DEQ to pay for the planning and/or design activities; and

**WHEREAS**, the Municipality shall obtain this Grant by entering into the S2 Grant Agreement with the MFA and the DEQ.

### THEREFORE, BE IT RESOLVED THAT:

1. Michael Brown, Emergency Manager is designated as the Authorized Representative for purposes of the S2 Grant Agreement.
2. The proposed form of the S2 Grant Agreement between the Municipality, the MFA and DEQ (attached hereto as Appendix I) is hereby approved and the Authorized Representative is authorized and directed to execute the S2 Grant Agreement with such revisions as are permitted by law and agreed to by the Authorized Representative.
3. The Municipality shall repay the Grant, within 90 days of being informed to do so, with interest at a rate not to exceed 8 percent per year, to the Authority if any of the following conditions occur:

(a) the Municipality fails to submit an administratively complete loan application for assistance from the SRF, the SWQIF or other source of financing for the project within 3 years of the Grant award;

(b) the project has been identified as being in the fundable range or is approved for funding from another source and the Municipality declines loan assistance for 2 consecutive fiscal years unless the Municipality proceeds with funding from another source; or

c) the Municipality is unable to, or decides not to, proceed with constructing the project.

4. The Grant, if repayable, shall be a first budget obligation from the general funds of the Municipality, and the Municipality is required, if necessary, to levy ad valorem taxes on all taxable property in the Municipality for the payment thereof, subject to applicable constitutional, statutory and Municipality tax rate limitations.

5. The Municipality shall not invest, reinvest or accumulate any moneys deemed to be Grant funds, nor shall it use Grant funds for the general local government administration activities or activities performed by municipal employees.

6. The Authorized Representative is hereby jointly or severally authorized to take any actions necessary to comply with the requirements of the MFA and the DEQ in connection with the issuance of the Grant. The Authorized Representative is hereby jointly or severally authorized to execute and deliver such other contracts, certificates, documents, instruments, applications and other papers as may be required by the MFA or the DEQ or as may be otherwise necessary to effect the approval and delivery of the Grant.

7. The Municipality acknowledges that the S2 Grant Agreement is a contract between the Municipality, the MFA and the DEQ.

8. All resolutions and parts of resolutions insofar as they conflict with the provisions of this Resolution are rescinded.

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Peter M. Bade, Chief Legal Officer

**APPROVED AS TO FINANCE:**

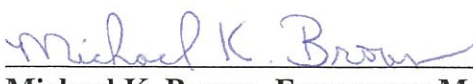
  
\_\_\_\_\_  
Jerry Ambrose, Finance Director

**EM DISPOSITION:**

ENACT \_\_\_\_\_

FAIL \_\_\_\_\_

DATED 12-28-11

  
\_\_\_\_\_  
Michael K. Brown, Emergency Manager

# S2 GRANT APPLICATION

Rick Snyder, Governor

## Michigan Department of Environmental Quality (DEQ)

Dan Wyant, Director

<http://www.michigan.gov/deq>

## Michigan Department of Treasury Michigan Finance Authority (Authority)

Andy Dillon, State Treasurer

<http://www.michigan.gov/treasury>

### Administered by:

Department of Environmental Quality  
Resource Management Division  
Revolving Loan Section  
Sonya T. Butler, Chief

Department of Treasury  
Michigan Finance Authority  
Joseph Fielek, Executive Director

### *Mailing Addresses:*

PO Box 30241  
Lansing, Michigan 48909  
517-373-2161

PO Box 15128  
Lansing, Michigan 48901  
517-335-0994

### *Delivery Addresses:*

Constitution Hall  
3<sup>rd</sup> Floor South  
525 West Allegan Street  
Lansing, Michigan 48933

Richard H. Austin Building  
1<sup>st</sup> Floor  
430 West Allegan Street  
Lansing, Michigan 48922

**Completion of this application is mandatory for the applicant  
to be considered for S2 Grant Program assistance.**

Printed under the authority of Parts 52 and 53, of the Natural Resources and Environmental Protection Act,  
1994 PA 451, as amended.



## PROJECT INFORMATION

**Project Name** Wastewater Collection System

**Project Location** City of Flint

(Cities, Villages, Townships, and Counties Impacted by the Project)

**A. Legal Name of Applicant** City of Flint

*The legal name of the applicant may be different from the name of the project. For example, a county may be the legal applicant, while the project may be named for the particular village or township it will serve.*

Applicant's Federal Employer Identification No.: \_\_\_\_\_

**B. Address of Applicant**

Street, P.O. Box 1101 South Saginaw Street

City, State & Zip Flint, MI 48502

(810) 237-2027

(810)

(Area Code and Telephone Number)

(Fax Number)

(E-mail Address)

**C. Designated Contacts for this Project**

1. Authorized Representative

Name Michael Brown

Title Emergency Financial Manager

Street, P.O. Box 1101 South Saginaw Street

City, State & Zip Flint, MI 48502

(810) 237-2027

(810)

(Area Code and Telephone Number)

(Fax Number)

(E-mail Address)

2. Applicant's Bond Counsel

Name \_\_\_\_\_

Firm \_\_\_\_\_

Street, P.O. Box \_\_\_\_\_

City, State & Zip \_\_\_\_\_

(Area Code and Telephone Number)

(Fax Number)

(E-mail Address)

3. Applicant's Financial Advisor

Name \_\_\_\_\_

Firm Dickinson Wright

Street, P.O. Box 215 South Washington Square

City, State & Zip Lansing, MI 48933

(Area Code and Telephone Number)

(Fax Number)

(E-mail Address)

THIS FORM IS FOR PRINTING ONLY. THE FORM WILL NOT BE ACCEPTED IF IT HAS BEEN EDITED, ALTERED, RETYPED, OR CONVERTED TO ANY OTHER FORMAT.

4. Applicant's Consulting Engineer

Name Jeffrey B. Markstrom, PE

Firm ROWE Professional Services Company

Street, P.O. Box 540 South Saginaw Street, Suite 200

City, State & Zip Flint, MI 48502

(810) 341-7500

(Area Code and Telephone Number)

(810) 341-7573

(Fax Number)

jmarkstrom@rowepsc.com

(E-mail Address)

**D. Disclosure of Conditions Requiring Repayment of Grant**

The S2 Grant Program was specifically created with the intent of accelerating the progress of water pollution control efforts and stimulating the use of the revolving fund programs. It is expected that S2 grant recipients will be willing and able to complete the loan application process and finance the construction of needed facilities with loan assistance from the State Revolving Fund (SRF) and/or the Strategic Water Quality Initiatives Fund (SWQIF). Consistent with this intent and provisions of Part 52 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended:

*The grantee shall repay the grant, within 90 days of being informed to do so, with interest accrued from the time funds were disbursed at a rate not to exceed 8 percent per year, to the Authority for deposit into the SWQIF if any of the following conditions occur:*

- (1) The applicant fails to submit an administratively complete loan application for assistance from the SRF, the SWQIF, or other source of financing for the project within 3 years of the grant award.*
- (2) The project has been identified as being in the fundable range or is approved for funding from another source and the applicant declines the loan assistance for 2 consecutive fiscal years unless the applicant proceeds with funding from another source.*
- (3) The applicant is unable to, or decides not to, proceed with constructing the project.*

**E. Proposed Scope of Work**

Municipalities can seek S2 Grant Program assistance to cover the costs of the planning and design of sewage treatment works projects, stormwater treatment projects, or nonpoint source projects, and for user charge system development. Please note that only those applicants who have completed SRF/SWQIF project planning can apply for grant assistance for design engineering or user charge system development. If you have not already submitted a final project plan (complete with a public hearing transcript and resolution of adoption by the governing body), then one must be submitted with your S2 grant application that includes a request for a design engineering and/or user charge system development grant. **Please attach additional pages as necessary.**

Please describe the specific activities you will fund with S2 grant assistance:

See attached

Please describe the system deficiencies or water quality problems you want to evaluate/address:

See attached

**NOTE: If you have already submitted a final SRF or SWQIF project plan to the DEQ and are seeking S2 grant assistance for design engineering and/or user charge system development costs, skip to Section G. Please indicate your assigned project number:**

**SRF Loan Project #** \_\_\_\_\_

**SWQIF Loan Project #** \_\_\_\_\_

## **F. Required Information**

If you are seeking S2 grant assistance for the preparation of a new SRF/SWQIF project plan, the following information (Items 1 – 8 ) must be provided with this application:

1. Study/Service Area Information
  - a. Map(s) of the study and service areas
  - b. Study and service area population figures and flows
  - c. Projected 20-year population figures and flows
2. Existing Wastewater Treatment Facilities
  - a. Treatment facilities site map
  - b. Treatment processes flow diagram
  - c. Description of the treatment processes
  - d. Age and condition of the treatment facilities
  - e. Operation, maintenance, or other problems
  - f. Data on existing flows and design capacity
  - g. Effluent characteristics and impacts
  - h. Copy of the discharge permit or a compliance order
  - i. Documentation of the need for facility improvements
3. Existing Wastewater Collection System
  - a. Map(s) and description of the entire collection system
  - b. Map(s) and descriptions of the combined sewer areas
  - c. Age and condition of interceptors and collector sewers
  - d. Locations, ages, and capacities of pump stations
  - e. Condition and adequacy of pump stations
  - f. Locations, ages, and capacities of retention/equalization basins
  - g. Condition and adequacy of retention/equalization basins
  - h. Operation, maintenance, or other problems
  - i. Data on existing collection system flows, including a preliminary assessment of infiltration and inflow (see Item 4 below)
  - j. Raw sewage bypass locations, frequencies, durations, volumes, and water quality impacts
  - k. Combined sewer overflow locations, frequencies, durations, volumes, and water quality impacts
  - l. Documentation of the need for collection system improvements
4. Excessive Infiltration and Inflow (I/I)

An initial quantification of collection system I/I must be provided with this application to determine the applicability of the following conditions:



- a. Wastewater flow during conditions of high groundwater is greater than 120 gallons per capita per day.
- b. Wastewater flow during the design storm event or any smaller storm event is greater than 275 gallons per capita per day.
- c. Storm events cause backup problems, overflows, or poor treatment performance due to hydraulic overloading.

Depending on the nature of the proposed project, an I/I analysis may be required and would be eligible for inclusion as part of this application. An I/I analysis being proposed in the absence of any of these conditions will not be eligible for S2 grant assistance. For further information, please refer to pages 15–17 in the **DEQ Clean Water Revolving Funds Project Plan Preparation Guidance (CWRF PPPG)**.

5. Sewer System Evaluation Survey (SSES)

If you are proposing to complete an SSES with S2 grant assistance, please provide a copy of the completed I/I analysis with this application.

6. Sewer Televising/Physical Inspections for Structural Integrity

If you are proposing to perform televising and/or physical inspections with S2 grant assistance to assess the structural integrity of municipal sewers, please provide documentation with this application to justify the extent of the area(s) to be evaluated.

Applicants should note that defects identified as a result of televising/physical inspections must meet the requirements found on pages 17–18 in the **CWRF PPPG** to be considered an SRF-eligible need for design or construction funding.

7. Projects in an Area Currently Without Sewers

Are you proposing to seek S2 grant assistance for a project to correct failing on-site septic systems in an area currently without sanitary sewers? ☐ YES ☒ NO

If YES, applicants should note that this type of project has a higher degree of difficulty in moving forward due to the controversial nature of establishing a Special Assessment District (SAD) and the inability to proceed with project construction due to the SAD not receiving approval. Disapproval of an SAD would require the S2 grant to be repaid with interest.

Applicants need to present sufficient documentation to identify suspect/known problem areas as part of this application and as a prerequisite to defining a need for their residents. For further information, please refer to pages 4–6 and 19 in the **CWRF PPPG**.

8. Projects to Abate Nonpoint Sources of Water Pollution

Are you proposing to seek S2 grant assistance for a project to correct nonpoint source water pollution? ☐ YES ☒ NO

If YES, please address the following questions:

a. Is the proposed project included in an area covered by a Section 319 or a Clean Michigan Initiative (CMI) approved watershed plan? ☐ YES ☐ NO

b. Is the proposed project located within an MS4 permit area? ☐ YES ☐ NO

If YES, is the proposed project required under that permit? ☐ YES ☐ NO

If YES, please attach an explanation to this application.

- c. Does the proposed project help address a nonpoint pollutant source identified in the approved watershed management plan or a TMDL? ☐ YES ☐ NO

If YES, please attach an explanation to this application.

Applicants also need to attach documentation to this application to explain how the proposed project will address the nonpoint source water quality problem, including the estimated reduction in the problem pollutant(s).

#### G. Multi-Purpose Projects

Are you proposing to seek S2 design grant assistance for a project which involves non-wastewater-related improvements (e.g., the installation of water mains or storm sewers, full-width road restoration, etc.)? ☐ YES ☒ NO

If YES, please provide a draft Alternative Justifiable Expenditure (AJE) computation with this application. For further information, please refer to the **DEQ Guidance to Applicants and Consultants Regarding SRF Alternative Justifiable Expenditures**.

#### H. S2 Grant Agreement Period

Target date for completion of all grant-funded tasks: July 2013 (month/year)

The applicant intends to seek SRF and/or SWQIF loan(s) to construct the proposed project in Fiscal Year 2014 (an October 1 to September 30 Fiscal Year)

#### I. Project Cost Worksheet

Please carefully read the instructions below before completing the Project Cost Worksheet.

Grant Budget Item	Incurred Project Costs*	Estimated Project Costs	Cost Supporting Documents Attached?	Total Project Costs
1. Project Planning Costs		\$800,000	<input checked="" type="checkbox"/> YES	\$800,000.00
2. Design Engineering Costs			<input type="checkbox"/> YES	
3. User Charge System Development Costs			<input type="checkbox"/> YES	
4. Cost Subtotal				\$800,000.00
5. LESS 10% Local Match				\$80,000.00
6. Requested S2 Grant Amount (Line 4 minus Line 5)				\$720,000.00

\* Only costs incurred for services rendered on or after December 14, 2010, the effective date of Act 231 of the Public Acts of 2010, are eligible for S2 grant assistance.

##### 1. Entering Cost Figures

To complete the Project Cost Worksheet, enter costs incurred to date in the first column and estimated costs in the second column. **Please use whole dollar amounts for all entries.** A budget line item may have costs entered in each column; however, the entries must accurately reflect the division between incurred costs and estimated (i.e., the costs in the second column must not be a cumulative total but are to represent the balance of costs not yet incurred).

**Please note that S2 grant assistance is not available for general local government administrative activities or activities performed by municipal employees.**

THIS FORM IS FOR PRINTING ONLY. THE FORM WILL NOT BE ACCEPTED IF IT HAS BEEN EDITED, ALTERED, RETYPED, OR CONVERTED TO ANY OTHER FORMAT.



## 2. Supporting Documentation

Documentation must be attached to your application to support the costs included on the Project Cost Worksheet. Please then check the box in the third column on each requested line item.

- For incurred costs, adequate supporting documentation means proof of billing or payment for each cost for which grant assistance is being sought (e.g., copies of the monthly invoices from your consulting engineer).
- For estimated costs, adequate supporting documentation means *either* an executed contract *or* an invoice or letter from the vendor detailing the services to be rendered and their costs.

## 3. Executed Contracts

A contract between the applicant and the vendor must be executed for each service that has been or is to be rendered if the cost of such service is greater than \$50,000. An executed copy of each contract, with a clear identification of the scope of the services and a contract period, must be enclosed with your application.

## 4. Line-By-Line Completion Guidance

### Line 1 — Project Planning Costs

The costs associated with project planning activities directly related to the project for which SRF and/or SWQIF loan assistance will be sought should be placed on Line 1. Please see the DEQ **Clean Water State Revolving Fund Eligibility Guidance** for a description of eligible planning activities.

### Line 2 — Design Engineering Costs

The costs associated with SRF and/or SWQIF project design should be placed on Line 2. Please note that bidding phase services, including construction staking, are not eligible for S2 grant assistance.

### Line 3 — User Charge System Development Costs

The costs associated with the development or updating of the municipality's system of user charges to cover the costs of project construction, operation, and maintenance should be placed on Line 3. The costs to develop and pass sewer use ordinances, intermunicipal service agreements, or rate methodologies that are necessary for construction of the proposed project are also eligible for reimbursement and may be included on Line 3.

**Please note that costs for consultant services to prepare this grant application for the applicant are eligible for reimbursement.**

## J. Covenants and Certifications

1. The applicant has the legal, managerial, institutional, and financial capability to plan, design, and build the project, or cause the project to be built, and cause all facilities eventually constructed to be adequately operated.
2. The applicant certifies that no undisclosed fact or event, or pending litigation, will materially or adversely affect the project, the prospects for its completion, or the applicant's ability to make timely repayments of the grant if the project does not proceed.
3. The applicant agrees to provide, as a minimum, a 10 percent local match for grant-eligible costs and disburse match funds to service providers concurrent with grant disbursements.

4. The applicant agrees to maintain complete books and records relating to the grant and financial affairs of the project in accordance with generally accepted accounting principles (GAAP) and generally accepted government auditing standards (GAGAS).
5. The applicant agrees that all municipal contracts related to the project will provide that the prime contractor and any subcontractor may be subject to a financial audit and must comply with GAAP and GAGAS.
6. The applicant agrees to provide any necessary written authorizations to the DEQ and the Authority for the purpose of examining, reviewing, or auditing the financial records of the project. The applicant also agrees to require similar authorizations from all contractors, consultants, property owners, or agents with which the applicant negotiates an agreement.
7. The applicant agrees that all pertinent records shall be retained and available to the DEQ and the Authority for a minimum of three years after the actual initiation of operation of the project and that if litigation, a claim, an appeal, or an audit is begun before the end of the three-year period, records shall be retained and available until the three years have passed or until the action is completed and resolved, whichever is longer.
8. The applicant agrees to ensure that planning and design activities of the project are conducted in compliance with the requirements of Part 53 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended; its Administrative Rules; the Recommended Standards for Wastewater Facilities published by the Wastewater Committee of the Great Lakes – Upper Mississippi River Board of State and Provincial Health and Environmental Managers; and all applicable state and federal laws, executive orders, regulations, policies, and procedures.

**K. Required Documents**

The following documents must be submitted with this application. Your grant application will be deemed incomplete if the required documents are not attached.

- (1) Authorizing Resolution. An adopted and certified copy of the attached standard resolution, **including the S2 Grant Agreement boilerplate marked SAMPLE**, must be submitted.
- (2) Application Information. The proposed scope of work must be supported by the additional information required under Section F on pages 3–5 above.
- (3) Cost Support Documentation. All requested costs must be supported with documentation consistent with the instructions on pages 5 and 6 above.

I certify that I am the authorized representative designated by the governmental unit that will receive the grant for this project and that the application information being submitted is complete and accurate to the best of my knowledge.

I further certify that Michael K. Brown (legal name of applicant) agrees to and will abide by the covenants and certifications stipulated above.

Name and Title of Authorized Representative (Please Print or Type)

Michael K. Brown

Signature of Authorized Representative (Original Signature Required)

12-28-11

Date



Please return the application and the specified attachments to:

REVOLVING LOAN SECTION  
RESOURCE MANAGEMENT DIVISION  
MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

**MAILING ADDRESS**  
P.O. BOX 30241  
LANSING MI 48909-7741

**SURFACE DELIVERY ADDRESS**  
CONSTITUTION HALL 3<sup>RD</sup> FLOOR SOUTH  
525 W ALLEGAN ST  
LANSING MI 48933-1502

Grant Applications Submitted By:	Can Expect A Grant Award In:*
July 1	October
October 1	January
January 1	April
April 1	July

\* Provided any identified application deficiencies will be resolved by the applicant within 60 days of the application submittal.



## Michigan Finance Authority

### STATE REVOLVING FUND AND STRATEGIC WATER QUALITY INITIATIVES FUND ("S2") GRANT AGREEMENT

This Grant Agreement ("Agreement") is made as of \_\_\_\_\_ 20\_\_\_\_, among the Michigan Department of Environmental Quality, Resource Management Division (the "DEQ"), the Michigan Finance Authority (the "Authority") (the DEQ and the Authority are, collectively, the "State") and the \_\_\_\_\_, County of \_\_\_\_\_ ("Grantee") in consideration for providing grant assistance to the Grantee.

The purpose of this Agreement is to provide funding for the project named below. The State is authorized to provide grant assistance pursuant to the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

**The Grantee shall be required to repay the grant made under this Agreement (the "Grant"), within 90 days of being informed by the State to do so, under certain conditions, as set forth in Section XVIII. Program Specific Requirements: S2 Grant.**

Award of a Grant under this Agreement and completion of the activities identified in Exhibit A do not guarantee loan assistance from the State Revolving Fund or Strategic Water Quality Initiatives Fund.

#### GRANTEE INFORMATION:

\_\_\_\_\_  
Name/Title of Authorized Representative

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone number

\_\_\_\_\_  
Fax number

\_\_\_\_\_  
E-mail address

\_\_\_\_\_  
Federal ID number

#### GRANT INFORMATION:

Project Name: \_\_\_\_\_

Project #: \_\_\_\_\_

Amount of Grant: \$ \_\_\_\_\_

Amount of Match \$ \_\_\_\_\_ (10% or more)

Project Total \$ \_\_\_\_\_ (grant plus match)

Start Date: \_\_\_\_\_ End Date: \_\_\_\_\_

#### DEQ REPRESENTATIVE:

\_\_\_\_\_  
Name/Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone number

\_\_\_\_\_  
Fax number

\_\_\_\_\_  
E-mail address

#### AUTHORITY REPRESENTATIVE:

\_\_\_\_\_  
Name/Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone number

\_\_\_\_\_  
Fax number

\_\_\_\_\_  
E-mail address



The individuals signing below certify by their signatures that they are authorized to sign this Grant Agreement on behalf of their respective parties, and that the parties will fulfill the terms of this Agreement, including the attached Exhibit A, and use this Grant only as set forth in this Agreement.

#### GRANTEE

\_\_\_\_\_  
Signature of Grantee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and title (typed or printed)

#### MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

\_\_\_\_\_  
Its Authorized Officer

\_\_\_\_\_  
Date

#### MICHIGAN FINANCE AUTHORITY

\_\_\_\_\_  
Its Authorized Officer

\_\_\_\_\_  
Date

### **I. PROJECT SCOPE**

This Agreement shall be in addition to any other contractual undertaking by the Grantee contained in the Resolution authorizing the Grant (the "Resolution").

This Agreement, including its exhibit(s), constitutes the entire agreement between the DEQ, the Authority, and the Grantee.

(A) The scope of this Grant is limited to the activities specified in Exhibit A (the "Project"), and such activities as are authorized by the State under this Agreement. Any change in project scope requires prior written approval in accordance with Section III, Changes, in this Agreement.

(B) By acceptance of this Agreement, the Grantee commits to complete the Project identified in Exhibit A within the time period allowed for in this Agreement and in accordance with the terms and conditions of this Agreement.

### **II. AGREEMENT PERIOD**

This Agreement shall take effect on the date that it has been signed by all parties (the "Effective Date"). The Grantee shall complete the Project in accordance with all the terms and conditions specified in this Agreement no later than the End Date shown on page one. **Only costs incurred between the Start Date and the End Date shall be eligible for payment under this Grant.**

### **III. CHANGES**

Any decreases in the amount of the Grantee's compensation, significant changes to the Project, or extension of the End Date, shall be requested by the Grantee in writing, and approved in writing by the State in advance. The State reserves the right to deny requests for changes to the Agreement including its Exhibit A. No changes can be implemented without approval by the State.

#### **IV. GRANTEE PAYMENTS AND REPORTING REQUIREMENTS**

The Grantee shall meet the reporting requirements specified in Section XVIII of this Agreement.

#### **V. GRANTEE RESPONSIBILITIES**

(A) The Grantee agrees to abide by all local, state, and federal laws, rules, ordinances and regulations in the performance of this Grant.

(B) All local, state, and federal permits, if required, are the responsibility of the Grantee. Award of this Grant is not a guarantee of permit approval by the state.

(C) The Grantee shall be solely responsible to pay all taxes, if any, that arise from the Grantee's receipt of this Grant.

(D) The Grantee is responsible for the professional quality, technical accuracy, timely completion, and coordination of all designs, drawings, specifications, reports, and other services furnished by its subcontractors under this Agreement. The State will consider the Grantee to be the sole point of contact concerning contractual matters, including payment resulting from this Grant. The Grantee or its subcontractor shall, without additional grant award, correct or revise any errors, omissions, or other deficiencies in designs, drawings, specifications, reports, or other services.

(E) The DEQ's approval of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve the Grantee of responsibility for the technical adequacy of the work. The DEQ's review, approval, acceptance, or payment for any of the services shall not be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

(F) The Grantee understands that it is a crime to knowingly and willfully file false information with the State for the purpose of obtaining this Agreement or any payment under the Agreement, and that any such filing may subject the Grantee, its agents, and/or employees to criminal and civil prosecution and/or termination of the Grant.

#### **VI. ASSIGNABILITY**

The Grantee shall not assign this Agreement or assign or delegate any of its duties or obligations under this Agreement to any other party without the prior written consent of the State. The State does not assume responsibility regarding the contractual relationships between the Grantee and any subcontractor.

#### **VII. NON-DISCRIMINATION**

The Grantee shall comply with the Elliott Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 *et seq*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended, MCL 37.1101 *et seq*, and all other federal, state, and local fair employment practices and equal opportunity laws and covenants that it shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to his or her hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of his or her race, religion, color, national origin, age, sex, height, weight, marital status, or physical or mental disability that is unrelated to the individual's ability to perform the duties of a particular job or position. The Grantee agrees to include in every subcontract entered into for the performance of this Agreement this covenant not to discriminate in employment. A breach of this covenant is a material breach of this Agreement.



## **VIII. UNFAIR LABOR PRACTICES**

The Grantee shall comply with the Employers Engaging in Unfair Labor Practices Act, 1980 PA 278, as amended, MCL 423.321 *et seq.*

## **IX. LIABILITY**

(A) The Grantee, not the State, is responsible for all liabilities as a result of claims, judgments, or costs arising out of activities to be carried out by the Grantee under this Agreement, if the liability is caused by the Grantee, any subcontractor, or anyone employed by the Grantee.

(B) All liability as a result of claims, demands, costs, or judgments arising out of activities to be carried out by the State in the performance of this Agreement is the responsibility of the State and not the responsibility of the Grantee if the liability is materially caused by any State employee or agent.

(C) In the event that liability arises as a result of activities conducted jointly by the Grantee and the State in fulfillment of their responsibilities under this Agreement, such liability is held by the Grantee and the State in relation to each party's responsibilities under these joint activities.

(D) Nothing in this Agreement should be construed as a waiver of any governmental immunity by the Grantee, the State, its agencies, or their employees as provided by statute or court decisions.

## **X. CONFLICT OF INTEREST**

No government employee or member of the legislative, judicial, or executive branches or member of the Grantee's governing body, its employees, partner, agencies or their families shall have benefit financially from any part of this Agreement, unless proportional to all other entities and as a normal outcome of implementing this Agreement.

## **XI. AUDIT AND ACCESS TO RECORDS**

See Section XVIII (C).

## **XII. INSURANCE**

The Grantee shall maintain insurance or self insurance that will protect it from claims that may arise from the Grantee's actions under this Agreement or from the actions of others for whom the Grantee may be held liable.

## **XIII. OTHER SOURCES OF FUNDING**

The Grantee guarantees that any claims made to the State under this Agreement shall not be financed by any source other than the State under the terms of this Agreement. If funding is received through any other source, the Grantee agrees to delete from Grantee's billings or to immediately refund to the State, the total amount representing such duplication of funding.

## **XIV. COMPENSATION**

(A) A breakdown of Project costs covered under this Agreement is identified in Exhibit A. The State shall pay the Grantee a total amount not to exceed the amount on page one of this Agreement, in accordance with Exhibit A, and only for expenses incurred. All costs over and above the Grant amount, necessary to complete the Project, are the sole responsibility of the Grantee.

(B) The Grantee is committed to the match amount on page one of this Agreement, in accordance with Exhibit A. The Grantee shall expend all local match committed to the Project by the End Date of this Agreement.

## **XV. CLOSEOUT**

- (A) A determination of Project completion shall be made by the DEQ upon satisfactory completion of the activities, products and deliverables described in Exhibit A and submittal of a request for final payment.
- (B) The Grantee shall provide the DEQ, within 30 days of the End Date all outstanding financial reports, products and deliverables required as a condition of the Agreement.
- (C) Final payment under this Agreement shall not constitute a waiver of the State's claims against the Grantee.
- (D) The Grantee shall immediately refund to the State any payments or funds advanced to the Grantee in excess of allowable reimbursable billings.
- (E) Grants may be audited by the State. Total expenditures are subject to audit and repayment of any overpayment of the DEQ share if an audit determines that total Project costs were not incurred as billed.

## **XVI. CANCELLATION**

This Agreement may be canceled, upon 30 days written notice, due to Executive Order, budgetary reduction, or other lack of funding.

## **XVII. TERMINATION**

(A) This Agreement may also be terminated by the State for any of the following reasons upon 30 days written notice to the Grantee:

(1) The State may terminate a Grant or withhold payment if the recipient fails to comply with the terms and conditions of the agreement or with the requirements of the authorizing legislation cited on page 1 or the rules promulgated thereunder, or with other applicable law or rules. If the Grant is terminated, the State may recover all funds awarded.

(2) If the Grantee knowingly and willfully presents false information to the State for the purpose of obtaining this Agreement or any payment under this Agreement, the State may terminate this Agreement with no further penalty whatsoever to the Grantee, and the Grantee, upon demand by the State, shall reimburse the State for all money received under this Agreement.

(3) If the Grantee uses the Grant for any purpose other than those described in Exhibit A or otherwise approved by the State, the State may terminate the Grant and require immediate repayment from the Grantee of disbursed funds for the misused portion of the Grant.

(B) The State may immediately terminate this Agreement without further liability if the Grantee, or any agent of the Grantee, or any agent of any subagreement, is:

(1) Convicted of a criminal offense incident to the application for or performance of a state, public, or private contract or subcontract;

(2) Convicted of a criminal offense, including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees;

(3) Convicted under state or federal antitrust statutes;

(4) Convicted of any other criminal offense which, in the sole discretion of the State, reflects on the Grantee's business integrity; or



(5) Included on the United State Environmental Protection Agency Suspension and Debarment list.

(C) If the State finds, after a notice and hearing, that the Grantee or any of the Grantee's agents or representatives, offered or gave gratuities, favors, or gifts of monetary value to any official, employee or agent of the State, in an attempt to secure a sub-agreement or favorable treatment in awarding, amending, or making any determinations related to the performance of this Agreement, the State may, by written notice to the Grantee, terminate this Agreement.

#### **XVIII. PROGRAM-SPECIFIC REQUIREMENTS: S2 REPAYABLE GRANT**

(A) General Representations. The Grantee represents and warrants to, and agrees with, the Authority and DEQ, as of the date hereof as follows:

(1) Grant monies shall be expended only to cover application costs for loan assistance from the State Revolving Fund (the "SRF") or the Strategic Water Quality Initiatives Fund (the "SWQIF").

(2) Grant funds shall not be used for general local government administrative activities or activities performed by municipal employees.

(3) The Grantee has full legal right, power and authority to execute this Agreement, and to consummate all transactions contemplated by this Agreement, the Resolution, and any and all other agreements relating thereto. The Grantee has duly authorized and approved the execution and delivery of this Agreement, the performance by the Grantee of its obligations contained in this Agreement, and this Agreement is a valid, legally binding action of the Grantee, enforceable in accordance with the terms thereof except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally, and by principles of equity if equitable remedies are sought.

(4) The Resolution has been duly adopted by the Grantee, acting through its governing body, is in full force and effect as of the date hereof, and is a valid, legally binding action of the Grantee, enforceable in accordance with the terms thereof except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally, and by principles of equity if equitable remedies are sought.

(5) The execution and delivery of this Agreement by the Grantee, and the fulfillment of the terms and conditions of, and the carrying out of the transactions contemplated by the Resolution and this Agreement do not and will not conflict with or constitute on the part of the Grantee a breach of, or a default under any existing law (including, without limitation, the Michigan Constitution), any court or administrative regulation, decree or order or any agreement, indenture, mortgage, obligation, lease or other instrument to which the Grantee is subject or by which it is bound and which breach or default would materially affect the validity or binding effect of the Grant, or result in a default or lien on any assets of the Grantee. No event has occurred or is continuing which with the lapse of time or the giving of notice, or both, would constitute a default by the Grantee under the Resolution or this Agreement.

(6) No consent or approval of, or registration or declaration with, or permit from, any federal, state or other governmental body or instrumentality, is or was required in connection with enactment by the Grantee of the Resolution, or execution and delivery by the Grantee of this Agreement which has not already been obtained, nor is any further election or referendum of voters required in connection therewith which has not already been held and certified and all applicable referendum periods have expired.

(7) Proceeds of the Grant will be applied (i) to the financing of the Project or a portion thereof as set forth in the Resolution and Exhibit A or (ii) to reimburse the Grantee for a portion of the cost of the Project. The Grantee will expend the proceeds of each disbursement of the Grant for the governmental purpose for which the Grant was issued.



(8) The attached Exhibit A contains a summary of the estimated cost of the Project, which the Grantee certifies is a reasonable and accurate estimate.

(9) The Grantee reasonably expects (i) to fulfill all conditions set forth in this Agreement to receive and to keep the Grant, and (ii) that no event will occur as set forth in this Agreement which will require the Grantee to repay the Grant.

(B) Repayment of Grant. The Grantee shall repay the Grant, within 90 days of being informed to do so, with interest calculated from the date Grant funds are first drawn at a rate not to exceed 8% per year, to be determined by the Authority, to the Authority for deposit into the SWQIF if any of the following occur as determined by the State:

(1) The Grantee fails to submit an administratively complete loan application for assistance from the SRF or the SWQIF or other source of financing for the SRF or SWQIF project within 3 years of the Grant award.

(2) The SRF or SWQIF project has been identified as being in the fundable range or is approved for funding from another source and the Grantee declines loan assistance for 2 consecutive fiscal years unless the Grantee proceeds with funding from another source..

(3) The Grantee is unable to, or decides not to, proceed with constructing the SRF or SWQIF project.

(C) Covenants and Certifications.

(1) The Grantee has the legal, managerial, institutional, and financial capability to plan, design, and build the Project, or cause the Project to be built, and cause all facilities eventually constructed to be adequately operated.

(2) The applicant certifies that no undisclosed fact or event, or pending litigation, will materially or adversely affect the Project, the prospects for its completion, or the applicant's ability to make timely repayments of the grant if the Project does not proceed or if the Project is funded through means other than a loan from the SRF or the SWQIF.

(3) The Grantee agrees to provide as a minimum a 10% local match for grant-eligible costs and disburse match funds to service providers concurrent with grant disbursements.

(4) The Grantee agrees to maintain complete books and records relating to the grant and financial affairs of the Project in accordance with generally accepted accounting principles ("GAAP") and generally accepted government auditing standards ("GAGAS").

(5) The Grantee agrees that all municipal contracts related to the Project will provide that the contractor and any subcontractor may be subject to a financial audit and must comply with GAAP and GAGAS.

(6) The Grantee will notify the DEQ and the Authority within 30 days of the occurrence of any event which, in the judgment of the applicant, will cause a material change in the financial condition of the Project, or, if the applicant has knowledge, of the wastewater transport and treatment system of which the Project is a part. Such events include the receipt of funding from any other sources, including another state or federal program, for Project costs financed by the S2 Grant.

(7) The Grantee agrees to provide any necessary written authorizations to the DEQ and the Authority for the purpose of examining, reviewing, or auditing the financial records of the Project. The applicant also agrees to require similar authorizations from all contractors, consultants, property owners or agents with which the applicant negotiates an agreement.

(8) The Grantee agrees that all pertinent records shall be retained and available to the DEQ and the Authority for a minimum of three years after satisfactory completion of the Project and final payment. If



litigation, a claim, an appeal, or an audit is begun before the end of the three-year period, records shall be retained and available until the three years have passed or until the action is completed and resolved, whichever is longer.

(9) The Grantee agrees to ensure that planning and design activities of the Project are conducted in compliance with the requirements of Part 53 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, its Administrative Rules and Recommended Standards for Wastewater Facilities published by the Wastewater Committee of the Great Lakes – Upper Mississippi River Board of State and Provincial Health and Environmental Managers, and all applicable state and federal laws, executive orders, regulations, policies, and procedures.

(10) The Grantee agrees that the Project shall proceed in a timely fashion and will exercise its best efforts to cause completion of the associated loan application requirements within three years of award of the S2 Grant from the Strategic Water Quality Initiatives Fund in accordance with Section 5204(a) of the Natural Resources and Environmental Protection Act 1994, PA 451, as amended.

(11) The Grantee certifies that: (a) if it is the owner or operator of an oceangoing vessel or a non-oceangoing vessel, it is in compliance with the requirements of MCL §324.3103a, and is on an applicable list prepared under MCL §324.3103a(4); and (b) if it has contracts for the transportation of cargo with an oceangoing or non-oceangoing vessel operator, that operator(s) is/are on an applicable list prepared under MCL §324.3103a(4).

(D) Grantee Reimbursements and Deliverables

The Grantee may request grant disbursements no more frequently than monthly, using the Disbursement Request Form provided by the DEQ. Upon receipt of a disbursement request, the DEQ will notify the Authority, which will in turn disburse grant funds equal to 90% of eligible costs that have been adequately documented. The forms provided by the State will include instructions on their use and shall be submitted to the State representative at the address on page 1. All required supporting documentation (invoices) for expenses must be included with the disbursement request form. The Grantee is responsible for the final submittal of all documents prepared under this Grant and included in the Project Scope identified in Exhibit A.

(E) Miscellaneous Provisions.

(1) Applicable Law and Nonassignability. This Agreement shall be governed by the laws of the State of Michigan.

(2) Severability. If any clause, provision or section of this Agreement be ruled invalid or unenforceable by any court of competent jurisdiction, the invalidity or unenforceability of such clause, provision or section shall not affect any of the remaining clauses, provisions or sections.

(3) Execution of Counterparts. This Agreement may be executed in several counterparts each of which shall be regarded as an original and all of which shall constitute one and the same document.

**XIX. USE OF MATERIAL**

Unless otherwise specified in this Agreement, the Grantee may release information or material developed under this Agreement, provided it is acknowledged that the DEQ funded all or a portion of its development.

**XX. SUBCONTRACTS**

The State reserves the right to deny the use of any consultant, contractor, associate or other personnel to perform any portion of the project. The Grantee is solely responsible for all contractual activities performed under this Agreement. Further, the State will consider the Grantee to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Grant. All

subcontractors used by the Grantee in performing the project shall be subject to the provisions of this Agreement and shall be qualified to perform the duties required.

## **XXI. ANTI-LOBBYING**

If all or a portion of this Agreement is funded with state funds, then the Grantee shall not use any of the grant funds awarded in this Agreement for the purpose of lobbying as defined in the State of Michigan's lobbying statute, MCL 4.415(2). "Lobbying" means communicating directly with an official of the executive branch of state government or an official in the legislative branch of state government for the purpose of influencing legislative or administrative action." The Grantee shall not use any of the grant funds awarded in this Agreement for the purpose of litigation against the State. Further, the Grantee shall require that language of this assurance be included in the award documents of all subawards at all tiers.



**S2 Grant Program**

Project No. \_\_\_\_\_

**Exhibit A**

Grantee: \_\_\_\_\_

Project Name: \_\_\_\_\_

DEQ Approved Grant Amount: \$ \_\_\_\_\_ ; \_\_\_\_\_  
\_\_\_\_\_ Dollars

Time Period for Eligible Costs: Start Date \_\_\_\_\_ (month/year)

End Date \_\_\_\_\_ (month/year)

Description of Approved Project Scope:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEQ Approved Project Costs	
1. Planning Costs	\$
2. Revenue System Development Costs	\$
3. Design Engineering Costs	\$
4. Eligible Cost Subtotal	\$
5. LESS ( $\geq 10\%$ ) Local Match	\$
6. Approved S2 Grant Amount (Line 4 minus Line 5)	\$

The following services have been determined to be ineligible for S2 Grant assistance, for the reasons listed, and have been excluded from the approved project costs shown above:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_