

**AGREEMENT BETWEEN  
WISCONSIN DEPARTMENT OF NATURAL RESOURCES AND  
THE CAPITAL AREA REGIONAL PLANNING COMMISSION**

THIS AGREEMENT is entered into by and between the State of Wisconsin Department of Natural Resources (Department) and the Capital Area Regional Planning Commission (CARPC) (Grantee) for the purpose of providing water quality management planning assistance to the Department.

FOR AND IN CONSIDERATION of the terms and conditions contained in this Grant Agreement, the above-named parties agree:

1. PERIOD OF AGREEMENT: This grant agreement shall be for the period of July 1, 2017 until December 31, 2017, during which period all performance as described in this grant agreement shall be fully completed to the satisfaction of the Department.
2. CANCELLATION: The Department reserves the right to cancel this grant agreement in whole or in part, without penalty, due to nonappropriation of funds or for failure of the Grantee to comply with terms, conditions, and specifications of this grant agreement.
3. ENTIRE AGREEMENT; AMENDMENTS: This grant agreement, together with the specifications in the bid request (if any) and referenced parts and attachments, shall constitute the entire grant agreement and previous communications or agreements pertaining to the subject matter of this grant agreement are hereby superseded. Any grant agreement revisions, including cost adjustments and time extensions, may be made only by a written amendment to this grant agreement, signed by both parties prior to the ending date of this grant agreement.
4. ASSIGNMENT SUBCONTRACTS: Neither this grant agreement nor any right or duty in whole or in part by the Grantee under this grant agreement may be assigned, delegated or subcontracted without the written consent of the Department. If upon the written consent of the Department this grant agreement or any right or duty in whole or in part is assigned, the Assignee(s) shall expressly agree to assume and perform all relevant obligations expressed under the terms of this grant agreement and be bound by the terms and conditions of this grant agreement. Assignment in whole or in part of this grant agreement does not absolve the Grantee of any liability or obligation expressed and agreed to hereunder.
5. DESCRIPTION OF WORK: The Grantee agrees to perform the following services to the satisfaction of the Department:
  - A. See Attached July 7, 2017 Capital Area Regional Planning Commission (CARPC) transmittal letter and Water Quality Management Planning Work Program
  - B. Reports:
    - 1) Provide quarterly reports to the Department in October, January, April and July describing all applicable work activities completed or in progress, activities anticipated during the next quarter, and any problems/issues that could affect completing this work on time. Quarterly reports should be a one or two page report, providing the following information:
      - a) Project Goals

- b) Progress this Quarter
- c) Activities Planned for Next Quarter
- d) Problems/Issues (including any that could affect completing the project on time)

2) Prepare and submit to the Department within 60 days after the end of the agreement a final report describing all work activities. This report shall be subject to review and approval by the Department of Natural Resources.

6. AGENCY CONTACTS: All communications regarding this grant agreement will be made through the designated agency contacts. The designated contacts are:

Grantee - Larry Palm, Chair  
Capital Area Regional Planning Commission  
City County Building, Room 362  
210 Martin Luther King Jr. Blvd.  
Madison, WI 53703-3350

Department - Ryan Raab  
Wisconsin Department of Natural Resources  
Bureau of Water Quality – WY/3  
101 S. Webster Street, P.O. Box 7921  
Madison, WI 53707-7921

7. TERMINATION:

- A. This grant agreement may be terminated in whole, or in part, in writing by the Department in the event of substantial failure of the Grantee to fulfill its obligation under this grant agreement, provided, that the Department shall give the Grantee not less than thirty (30) days written notice (delivered by certified mail, return receipt requested) of intent to terminate and an opportunity for consultation prior to termination.
- B. If termination is effected by the Department, an equitable adjustment in the price provided for in this grant agreement shall be made. Any payment due to the Grantee at the time of termination may be adjusted to the extent of any additional costs occasioned to the Department by reason of the Grantee's default. The equitable adjustment for any termination shall provide for payment to the Grantee for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the Grantee relating to commitments which had become firm prior to the termination.
- C. Upon receipt of a termination action pursuant to paragraph A above, the Grantee shall (1) promptly discontinue all services affected (unless the notice directs otherwise); (2) terminate all subcontracts to the extent that they relate to the performance of work terminated by the Department, and (3) deliver or otherwise make available to the Department, all data, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Grantee in performing this grant agreement, whether completed or in process.
- D. Upon termination pursuant to paragraph A above, the Department may take over the work and prosecute the same to completion by agreement with another party or otherwise

and the Grantee is liable for any excess costs for such similar work or services.

- E. The rights and remedies of the Department and the Grantee provided in this clause are in addition to any other rights and remedies provided by law or under this grant agreement.
8. PAYMENT: The Department agrees to reimburse the Grantee \$22,500 in federal 604b funds (CFDA #66.454) to be earned by December 31, 2017, and \$22,500 in state FY18 general purpose revenue funds (state identification #370.604) to be earned by December 31, 2017, for an agreement total of \$45,000. The Grantee may claim eligible costs for reimbursement for work conducted between July 1, 2017 and the end of the grant agreement.

Billings by the Grantee shall be made on a quarterly itemized basis for the actual net costs incurred for review and acceptance. Invoices should be sent electronically to [Ryan.Raab@wisconsin.gov](mailto:Ryan.Raab@wisconsin.gov) and in paper form to:

Ryan Raab, Budget Coordinator  
Department of Natural Resources  
Bureau of Water Quality - WY/3  
P.O. Box 7921  
Madison, WI 53707-7921

Final invoices must be submitted within 60 days after the end of the grant agreement. If the final report as identified in 5, B above does not accompany the final billing, the Department may withhold 10% of the total dollars of this grant agreement until the final report is received, reviewed and approved by the Department.

9. RECORDS; ACCESS: The Grantee shall, for a period of three (3) years after completion and acceptance by the Department, maintain books, records, documents, and other evidence directly pertinent to performance on work under this grant agreement in accordance with generally accepted accounting principles and practices. The Grantee shall also maintain the financial information and data used in the preparation or support of the cost submission in effect on the date of execution of this grant agreement and a copy of the cost summary submitted to the Department. The Department or any of its duly authorized representatives shall have access to such books, records, documents, and other evidence for the purpose of inspection, audit, and copying. The Grantee shall provide proper facilities for such access and inspection. In addition, those records which relate to any dispute, appeal or litigation, or the settlement of claims arising out of such dispute, performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such dispute, appeal, litigation, claim or exception.
10. INDEPENDENT CONTRACTOR: The Grantee is an Independent Contractor for all purposes and is not an employee or agent of the Department.
11. INDEMNIFICATION. The Grantee agrees to save, keep harmless, defend and indemnify the State of Wisconsin, Department of Natural Resources and all its officers, employees and agents, against any and all liability, claims and costs of whatever kind and nature, for injury to or death of any person or persons, and for loss or damage to any property (state or other) occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operation or performance of work in connection with this grant agreement or omissions of Grantee's employees, agents or representatives.

12. INSURANCE. The Grantee performing services for the State of Wisconsin shall:
- A. Maintain worker's compensation insurance for all employees engaged in the work.
  - B. Maintain commercial liability and property damage insurance against any claim(s) which might occur in carrying out this agreement/contract. Minimum coverage shall be one million dollars (\$1,000,000) liability for bodily injury and property damage including products liability and completed operations. Provide motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out the agreement. Minimum coverage shall be one million dollars (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.
  - C. Provide an insurance certificate indicating this coverage, countersigned by an insurer licensed to do business in Wisconsin, covering the period of the agreement/contract. The insurance certificate is required to be presented prior to the issuance of the purchase order or before commencement of the agreement.
  - D. The state reserves the right to require higher or lower limits where warranted.
13. NONDISCRIMINATION: In connection with the performance of work under this grant agreement, the Grantee agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in section 51.01(5), Wis. Stats., sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Grantee further agrees to take affirmative action to ensure equal employment opportunities. The Grantee agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the Department setting forth the provisions of this nondiscrimination clause. Failure to comply with the conditions of this clause may result in the Grantee being declared an "ineligible" Grantee, termination of the grant agreement or withholding of payment.
14. AFFIRMATIVE ACTION: If this grant agreement is for an amount fifty thousand dollars (\$50,000) or more the Grantee agrees to submit a written affirmative action plan to the Department within 15 business days after the grant agreement commences if an acceptable plan is not already on file with the State of Wisconsin. (Grantees with an annual work force of fewer than 50 employees are exempted from this requirement.) Failure to comply with the conditions of this clause may result in the Grantee being declared an "ineligible" grantee, termination of the grant agreement or withholding of payment.
15. FUNDING SOURCE: This grant agreement is funded in part or wholly by a grant from the U.S. Environmental Protection Agency, CFDA #66.454. This procurement will be subject to regulations contained in 2 CFR 200.338 & 200.339 (formerly 40 CFR Parts 31 and 40 and OMB Circular 133). Neither the United States nor the Environmental Protection Agency is party to this agreement.
16. APPLICABLE LAW: This grant agreement shall be governed by the laws of the State of

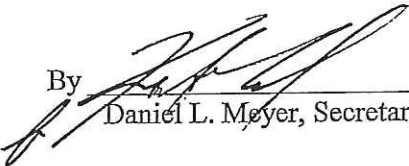
Wisconsin. The Grantee shall at all times comply with all federal, state, and local laws, ordinances, and regulations in effect during the period of this grant agreement.

17. ANTITRUST ASSIGNMENT. The Grantee and the Department recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the Department. Therefore, the Grantee hereby assigns to the Department any and all claims for such overcharges as to goods, materials or services purchased in connection with this agreement.
18. TAX DELINQUENCY. Grantees who have a delinquent Wisconsin tax liability may have their payments offset by the State of Wisconsin.
19. ADDENDUM: Additional conditions are attached as Attachment A, as part of the Water Quality Management Planning grant that is funding this award. It is the responsibility of the grantee to determine which if any of the Federal Administrative Conditions in Attachment A may be relevant to the grantee or their sub awards, and to apply them accordingly.

The undersigned, as representatives of their respective agencies, hereto agree to this grant agreement.


STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

Date 11/21/17

By   
Daniel L. Meyer, Secretary

CAPITAL AREA REGIONAL PLANNING  
COMMISSION

Date 1/8/18

By   
Larry Palm, Chair

Date 1/8/18

By   
Kris Hampton, Secretary

# Attachment A

## **Administrative Conditions**

### **GENERAL TERMS AND CONDITIONS**

The recipient agrees to comply with the current EPA general terms and conditions available at :

<https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-april-27-2017-or-later>.

These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at <http://www.epa.gov/grants/grant-terms-and-conditions>.

### **UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MBE/WBE)**

#### **GENERAL COMPLIANCE, 40 CFR, Part 33**

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

#### **REPORTING PROVISION**

MBE/WBE reporting is required annually for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the "Other" category, that exceed the threshold amount of \$150,000, including amendments and/or modifications.

Based on EPA's review of the planned budget, this award does not meet the condition above and is not subject to the reporting requirements of the Disadvantaged Business Enterprise (DBE) Program. However, if during the performance of the award the total of all funds expended for direct procurement by the recipient and procurement under subawards or loans in the "Other" category exceeds \$150,000, annual reports will be required in accordance with the reporting paragraph below and you are required to notify your grant specialist for additional instructions.

The recipient also agrees to request prior approval from EPA for procurements that may activate DBE Program reporting requirements.

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Good Faith Efforts requirements as described in 40 CFR Part 33 Subpart C and Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D and explained below.

#### **MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E**

When required, MBE/WBE reports must be submitted annually. The recipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions are reportable, not just that portion which exceeds \$150,000.

When completing the annual report, recipients are instructed to check the box titled "annual" in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 30<sup>th</sup> of each year. Final reports are due by October 30<sup>th</sup> or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on total procurements. Recipients with expended and/or budgeted

funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

MBE/WBE reports should be sent to:

Adrienne M. Callahan, Region 5 MBE/WBE Coordinator  
USEPA, Acquisition and Assistance Branch  
77 West Jackson Boulevard (MC-10J)  
Chicago, IL 60604

The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at [http://www.epa.gov/osbp/dbe\\_reporting.htm](http://www.epa.gov/osbp/dbe_reporting.htm)

#### **FAIR SHARE OBJECTIVES , 40 CFR, Part 33, Subpart D**

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements .

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption .

#### **Current Fair Share Objective /Goal**

The dollar amount of this assistance agreement or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is \$250,000, or more. The WISCONSIN DEPARTMENT OF NATURAL RESOURCES has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

MBE: 8% WBE: 8%

#### **Negotiating Fair Share Objectives /Goals**

In accordance with 40 CFR, Part 33, Subpart D, established goals/objectives remain in effect for three fiscal years unless there are significant changes to the data supporting the fair share objectives. The recipient is required to follow requirements as outlined in 40 CFR Part 33, Subpart D when renegotiating the fair share objectives/goals.

#### **SIX GOOD FAITH EFFORTS , 40 CFR, Part 33, Subpart C**

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

(a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

(b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

(c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include

dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process .

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

#### **CONTRACT ADMINISTRATION PROVISIONS , 40 CFR, Section 33.302**

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

#### **BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)**

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

#### **EXTENSION OF PROJECT /BUDGET PERIOD EXPIRATION DATE**

EPA has not exercised the waiver option to allow automatic one-time extensions for non-research grants under 2 CFR 200.308 (d)(2). Therefore, if a no cost time extension is necessary to extend the period of availability of funds (budget period), the recipient must submit a written request, including a justification as to why additional time is needed, revised timelines and milestones, and an estimated date of completion, to the EPA prior to the budget/project period expiration dates.

The extension request should be submitted to the EPA Project Officer with a courtesy copy to the EPA Grants Management Specialist.

### **Programmatic Conditions**

#### **ANNUAL REPORTING**

Annual technical performance reports must be submitted within 30 days following the end of each year period. A final technical performance report must be submitted 90 days after the end of the budget and project periods. All technical performance reports must be submitted to the EPA Project Officer as identified on page one of this Assistance Agreement.

#### **COMPETENCY OF ORGANIZATIONS GENERATING ENVIRONMENTAL MEASUREMENT DATA**

In accordance with Agency Policy Directive Number FEM-2012-02, Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, Recipient agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable, Recipient agrees to demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. Recipient shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at [http://www.epa.gov/fem/lab\\_comp.htm](http://www.epa.gov/fem/lab_comp.htm) or a copy may also be requested by contacting the EPA project officer for this award.



## STATE GRANT CYBERSECURITY CONDITION

(a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements .

(b) (1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure.

For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition .

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO) and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR 200.331(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

## ENVIRONMENTAL RESULTS - RECIPIENT REPORTING - Recipients Subject to 40 CFR Part 35, Subpart A (Continuing Environmental Program Grants )

In accordance with 40 CFR Section 35, Subpart A, as applicable, the recipient agrees to provide in its Annual Evaluation of Performance, information regarding environmental results in the following areas: 1) achievement of the outputs and outcomes established in the Workplan; 2) the reasons for delays if established outputs or outcomes were not met; and 3) any additional pertinent information on environmental results.

## GEOSPATIAL DATA STANDARDS

All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at [www.fgdc.gov](http://www.fgdc.gov).

## PRE-AWARD COSTS

In accordance with 2 CFR 1500.8, the grantee may charge allowable pre-award costs (both Federal and non-Federal matching shares) incurred 90 calendar days before the actual award date provided that such costs were contained in the approved application. Expenses more than 90 calendar days pre-award require prior approval of EPA.

## SUBAWARD RECIPIENTS

The recipient must report on its subaward monitoring activities under 2 CFR 200.331(d). Examples of

items that must be reported if the pass-through entity has the information available are:

- I. Summaries of results of reviews of financial and programmatic reports.
- II. Summaries of findings from site visits and/or desk reviews to ensure effective subrecipient performance.
- III. Environmental results the subrecipient achieved.
- IV. Summaries of audit findings and related pass-through entity management decisions.
- V. Actions the pass-through entity has taken to correct deficiencies such as those specified at 2 CFR 200.331(e), 2 CFR 200.207 and the 2 CFR Part 200.338 Remedies for Noncompliance.

#### QUALITY ASSURANCE

The recipient agrees to comply with all the Quality Assurance requirements in 40 C.F.R. Part 58 (e.g. Appendix A) and 2 C.F.R. 200 for assistance agreement recipients. Also, see EPA Requirements for Quality Assurance Project Plans, EPA QA/R-5 (EPA/240/B-01/003 dated March 2001) at <http://www.epa.gov/quality/qs-docs/r5-final.pdf>. The recipient agrees to provide a Quality Assurance Project Plan

or the work in this grant within 60 days of grant award.