



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

May 14, 2020

Re: Dell Rapids, CWFCP 2021G-102
5th Street, 6th Street, and Iowa Avenue Water Line Improvements

Tom Earley, Mayor
City of Dell Rapids
PO Box 10
Dell Rapids, SD 57022

Dear Mayor Earley:

I would like to congratulate the City of Dell Rapids for obtaining a grant from the Consolidated Water Facilities Construction Program for the 5th Street, 6th Street, and Iowa Avenue Water Line Improvements project. The grant is for 27.7 percent of approved costs, not to exceed a maximum grant of \$750,000.

Enclosed is the grant agreement for your project. Please have the authorized signatory sign and date the agreement, make a copy for your files, and **the original returned** to our office. Also enclosed are the Assurances, Terms, and Conditions and a Payment Provisions Checklist related to the grant agreement. You cannot draw grant funds until the items listed on the checklist are submitted. Please keep the Assurances, Terms, and Conditions and begin preparing the items on the checklist.

Please take note of the audit requirements outlined in item #12. At project completion, a project audit or your regular scheduled audit covering the grant period shall be submitted to the department within 15 days of issuance.

In addition the enclosed W-9 form must be fully completed, signed, and **return the original to this department.**

I look forward to working with your system on this project. Please contact me at (605) 778-5668 or via email at suzanne.mckinley@state.sd.us if you have any questions.

Sincerely,

Suzanne McKinley
Water Resources Engineer I
Water and Waste Funding Program

Enclosures

Cc: Leslie Mastroianni, SECOG, Sioux Falls
Lance Meyer, DGR Engineering, Sioux Falls

**South Dakota
Consolidated Water Facilities Construction Program
Grant Agreement**

Recipient	City of Dell Rapids	Award Type	ID Number
Address	PO Box 10 Dell Rapids, SD 57022	Grant	2021G-102
Certifying Officer (name, title)	Tom Early Mayor	Date of Award April 27, 2020	Type of Action NEW
		Total Project Cost \$2,714,000	CWFCP Amount \$750,000

Project Title/Description 5th Street, 6th Street, and Iowa Avenue Storm and Sanitary Sewer Improvements

Replace approximately 1,563 feet of 8-inch sanitary, 1,003 feet of 4-inch sanitary and 1,096 feet of 12-30-inch RCP storm sewer, manholes, drop inlets and appurtenances on 6th Street between Garfield and Beach Avenues and Iowa Avenue between 9th and 10th Streets in conjunction with a water main project.

The city is also replacing approximately 150 feet of box culvert with reinforced concrete along 5th Street.

Award Conditions

General: The grantee covenants and agrees that it will expeditiously initiate and timely complete the project above described in accordance with this agreement in four years or less from the date of award. The grantee warrants, represents, and agrees that it will comply: (1) with all applicable provisions of SDCL Chapter 46A-1-63.1 and ARSD 74:05:07; (2) with any special conditions set forth in this agreement; and (3) with the attached Assurances, Terms, and Conditions.

Special: Grant funds for reimbursement of project costs must be drawn concurrently with the C461064-10 Clean Water SRF loan funds.

Offer

The State of South Dakota hereby offers assistance to the city of Dell Rapids for up to 27.7% of all approved total project costs not to exceed \$750,000 for the support of the approved project as described above (including all application modifications).

Signature of Award Official

Typed Name and Title

Date



Jerry Soholt, Chairman
Board of Water and Natural Resources

April 27, 2020

Acceptance

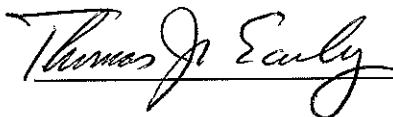
In accepting this award or amendment and any payment made pursuant thereto, (1) the undersigned represents that he/she is duly authorized to act on behalf of the recipient, and (2) the recipient agrees (a) to comply with the provisions of this agreement, and (b) any payments found by the State of South Dakota to have been overpaid will be refunded or credited in full to the State. To the best of my knowledge and belief, data in this agreement are true and correct.

Signature of Designated Official

By and On Behalf of The Recipient

Typed Name and Title

Date



Tom Early, Mayor

6/1/2020

CONSOLIDATED WATER FACILITIES CONSTRUCTION PROGRAM
GRANT AGREEMENT
ASSURANCES, TERMS AND CONDITIONS

In consideration of the approval of the Grant described above by the State of South Dakota, acting through its Board of Water and Natural Resources, and Department of Environment and Natural Resources ("DENR"), 523 East Capitol Avenue, Pierre, SD 57501 (collectively the "State"), the Grantee covenants and agrees to comply with the following assurances, terms, and conditions.

1. Grantee will comply with those federal, state and local laws, regulations, ordinances and permits applicable to the construction, operation, and maintenance of the Project.
2. Grantee will cause its contractors, sub-contractors, agents, and employees to comply with the applicable federal, state and local laws, regulations, ordinance, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance. In the event of conflict between federal, state and local laws and regulations, compliance with the more restrictive laws and regulations shall be deemed compliance with less restrictive laws and regulations.
3. Grantee will submit all changes that would alter the purpose, scope, or the functional layout of the Project to the State for approval and no such changes or modifications may be made without such prior approval in writing. It is agreed that the Application of the Grantee, including those materials attached in support thereof, are by this reference incorporated herein as if set out in full. Grantee will not substantially depart from the description of the Project as set forth therein without the prior written approval of the State.
4. Grantee will construct the Project, or cause it to be constructed, to final completion with reasonable diligence in accordance with the approved plans and specifications and the approved Project scope for the grant; construction will be completed and funds expended within four years after Grantee's request for grant funds has been approved.
5. Grantee will ensure that construction administration and inspection is done by or under the supervision of a professional engineer or architect licensed and registered in the State of South Dakota to help assure that the construction contractor's work conforms with the approved plans and specifications, and to furnish inspection and material testing reports, recommendations and such other information as the State may require. It is recognized and understood that the final responsibility of conformance with the plans and specifications is that of the construction contractor. The State has the right to monitor facility and design through on-site inspections from time to time.
6. Grantee warrants and represents as follows:
 - a. The Grantee is duly organized and existing under the laws of the State of South Dakota; has taken all proper action to authorize the execution, delivery and performance of its obligations under this Grant Agreement; and has the power and

waste, substance or constituent, or other substance in the environment which would individually or in the aggregate constitute a Material Adverse Occurrence; or

(3) has not received any notice or otherwise learned of any federal or state investigation evaluating whether any remedial action is needed to respond to a material release or threatened release on any toxic or hazardous waste, substance or constituent into the environment for which the Grantee is or may be liable. The Grantee is in substantial compliance with all Environmental Laws in the respective jurisdictions where it is presently doing business or conducting operations.

(4) Material Adverse Occurrence shall mean any occurrence of any nature whatsoever, including without limitation, any adverse determination in any litigation, arbitration or government investigation or proceeding, which the State shall reasonably determine materially adversely affects the present or prospective financial condition or operations of the Grantee, or impairs the ability of the Grantee to perform its obligations.

7. Grantee agrees to maintain the necessary and appropriate accounts, records and books in which full and correct entries are made, capable of allowing the preparation of annual financial statements prepared in accordance with generally accepted financial and reporting standards as promulgated by the Governmental Accounting Standards Board, or the Financial Accounting Standards Board, as appropriate, or an Other Comprehensive Basis of Accounting as defined by the American Institute of Certified Public Accountants. The State and its authorized representatives shall have the right to inspect such books and accounts upon reasonable notice, during normal business hours. Grantee will retain all books and records, including any audit required pursuant to this Grant Agreement, for a period of not less than three years following the issuance of the final grant close-out letter.
8. Grantee will establish safeguards to prevent employees from using their positions for a purpose that is, or gives the appearance of being, motivated by a desire for private gain unrelated to the public benefits from the Project, for themselves or others, particularly those with whom they have family, business, or other ties.
9. Grant proceeds will be kept in the state treasury, in the Water and Environment Fund, and shall be disbursed based upon the Grantee's request for disbursements. Grantee will submit signed requests for disbursements using a form prescribed by the State, together with all attachments required by such form. The request for disbursement will be submitted to such person or persons as the State may designate for approval. Disbursements may be obtained only for those Project costs which have been legally incurred, and which are due and payable, or have been paid by the Grantee. The Grantee will designate, by duly adopted resolution, an official to certify on Grantee's behalf that the request submitted is correct and is a valid expenditure for the Project. The Grantee is required to submit a W-9 form with the "Required Direct Deposit Information" completed which will authorize electronic payments by direct deposit and provide electronic payment notification to the Borrower. This form is available through the DENR Fiscal Office or it

for entities of the same or similar size and type as the Grantee, and similarly situated with facilities of the Project's type, and provide proof of such coverage to the State. In the event of cancellation of coverage the Grantee will promptly obtain replacement insurance with the same or substantially similar coverage and provide proof of such coverage to the State. In the event of a substantial change in insurance, issuance of a new policy, renewal, replacement, or changes in coverage, the Grantee will promptly provide written notice of such changes to the State and provide a new certificate of insurance showing continuous coverage in the amounts required.

16. Grantee agrees to indemnify and hold the State, its officers, agents, employees, assigns and successors in interest harmless from any and all claims or liability of any kind or character whatsoever arising from or connected with the construction, operation, or maintenance of the Project funded herein, provided that nothing herein requires the Grantee to indemnify the State for its own acts or omissions.
17. Grantee certifies, by signing this agreement, that:
 - a. A conflict of interest policy is enforced within the Grantee's organization;
 - b. Internal Revenue Service Form 990 has been or will be filed, if applicable, in compliance with federal law, and will be displayed immediately after filing on the Grantee's website or if Grantee does not maintain a website a copy of the form will be sent to the State;
 - c. An effective internal control system is employed by the Grantee's organization; and
 - d. Grantee is in compliance with the federal Single Audit Act, if applicable, in compliance with SDCL 4-11-2.1, and that audits are displayed on the Grantee's website or if Grantee does not maintain a website copies of the audits will be sent to the State.

If Grantee is a non-state agency they agree to disclose to the State, in writing, any conflicts of interest that exist under the Grantee's conflict of interest policy. The State will publically post any disclosed conflicts of interest along with the corresponding grant agreement on the OpenSD website.

18. Prior to the disbursement of funds, Grantee will provide the State with the written opinion of an attorney duly licensed to practice law in the State of South Dakota, said opinion certifying that, if applicable:
 - a. The Grantee is a duly organized and existing legal entity under State law, has the legal power to enter into this Grant Agreement both as a matter of State law and according to its enabling documents, and its governing board has duly authorized these transactions by appropriate resolutions;
 - b. The Grantee, has acquired or will acquire the real property necessary for the construction of the Project, together with those rights-of-way, easements, permits,

designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

23. In the event that any provision of this Grant Agreement shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
24. All other prior discussions, communications and representations concerning the subject matter of the Grant are superseded by the terms of this Grant Agreement, and except as specifically provided herein, this Grant Agreement constitutes the entire agreement with respect to the subject matter hereof.
25. This Grant Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Grant Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.
26. This Grant Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof or thereof, and which writing will be signed by an authorized representative of each of the parties. No provision stated herein shall be waived without the prior written consent of the State.
27. Time is of the essence in the performance of the covenants, terms and conditions contained in this Grant Agreement. This Grant Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective transferees, successors and assigns.