**SUBRECIPIENT FUNDING AGREEMENT**
**MINNESOTA DEED CONTAMINATION CLEANUP GRANT PROGRAM**
**THE SILOS PROJECT**

**THIS AGREEMENT**, is entered into by and between the City of Mankato, a Minnesota municipal corporation, whose address is 10 Civic Center Plaza, Mankato, MN 56001 (hereinafter referred to as "City"), and Silos Mankato, LLC (hereinafter referred to as “Subrecipient”).

**WHEREAS,** in cooperation with Subrecipient, the City applied to and received approval for funds in the amount of $76,770.00 from the State of Minnesota, acting by and through its Department of Employment and Economic Development, Business and Community Development Division ("DEED") under its Contamination Cleanup Grant Program (the "Cleanup Grant"); and

**WHEREAS,** the City desires to award proceeds of the Contamination Cleanup Grant in the amount of $76,770.00 (the "Subgrant") to Subrecipient, to assist Subrecipient with the development of the site on the real property located at 118 E. Plum Street, Mankato, MN and shown on attached **Exhibit A** (the “Property”) by funding a portion of the costs for The Silos Project identified in the Contamination Cleanup Grant Agreement and Application to DEED described in Section 1 below (the “Project”).

**WHEREAS,** the Subrecipient will provide no less than 25 percent (25%) of the Project costs up to $36,450.00 as the required local match under the Contamination Cleanup Grant (the “Match Funds”).

**NOW, THEREFORE,** in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **AWARD.** The City awards the Subgrant to Subrecipient for cleanup activities as described in the Contamination Cleanup Program Grant Agreement No. CCGP-24-0004-Z-FY24 between the City and DEED attached to this Agreement as **Exhibit B** (the "Cleanup Grant Agreement") and the Application to DEED submitted on May 1, 2024, on file in the City’s Office (the “Grant Application”), both of which are incorporated into this Agreement. In the event of a conflict between the Contamination Cleanup Grant Agreement, this Agreement and the Grant Application, the documents shall be deemed to be controlling in the following order: 1) the Contamination Cleanup Grant Agreement; 2) this Agreement; 3) the Grant Application. The Subgrant and Match Funds must be used exclusively to pay or reimburse actual project costs as reflected in the budget incorporated into the DEED Grant Agreement (“**Project**”). Administrative costs incurred by the Subrecipient are not eligible for reimbursement under this Agreement. Notwithstanding anything to the contrary, the Subrecipient understands and agrees that any reduction or termination of the Contamination Cleanup Grant will result in a like reduction or termination of the Subgrant, and that any material change in the timeline or scope of the Project must be approved in writing by the City and DEED.

   DEED expects the Project to achieve the following benefits (the “**Project Benefits**”):

   Local Tax Base Increase: $79,786
   New Jobs: 6 FTEs
   Retained Jobs: 0 FTEs
   Private Investment (construction costs): $6,400,000
   Total Housing Units: 26

Affordable Housing Units (for tenants whose incomes are at or below 60% of the area median income): 0

2. **PERFORMANCE.** The Subrecipient must comply with all requirements applicable to the City in the Contamination Cleanup Grant Agreement. Any action or inaction of Subrecipient which could result in a default under the Contamination Cleanup Grant Agreement will constitute noncompliance with this Agreement. If the City finds that there has been a failure to comply with the provisions of this Agreement or that reasonable progress on the Project has not been or will not be made, the City may take action to protect its interests, including refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed. If action to correct substandard performance is not taken by the Subrecipient within 30 calendar days, or such longer period specified by the City after written notice by the City, the City may terminate this Agreement.

3. **PERFORMANCE MONITORING.** The Subrecipient shall comply with all requirements in the DEED Grant Agreement and submit any reporting information on the Project or the Development that is requested by DEED or the City. City shall submit annual reports and a final report (on or before Jun 25th of each year) in the form required by DEED on the distribution of funds and the progress of the Project from the date of this Agreement through June 30th of each year. The City will monitor the Subrecipient's performance against the Project Benefits per the Project's application for DEED funds. If applicable, an approval from the Minnesota Pollution Control Agency or other appropriate State or Federal agency is required upon completion of cleanup activities.

4. **TIME OF PERFORMANCE.** Subrecipient must not begin work under the grant agreement until the grant agreement is fully executed. Subrecipient must provide invoices for eligible grant activities identified in the grant agreement so that the City can submit the first payment request to DEED before June 30, 2025, or the grant may be terminated. Subrecipient shall complete the Project on or before June 30, 2027 (the "End Date"). In order to ensure funds are drawn prior to the End Date, completed disbursement requests shall be received by the City at least forty-five (45) days prior to the End Date.

5. **CONDITIONS PRECEDENT TO DISBURSEMENT.** The following requirements are conditions precedent to the City's disbursement of any of the Subgrant proceeds.

A. The Subrecipient must have provided evidence satisfactory to the City showing that Subrecipient has site control of the Property.

B. The Subrecipient must have provided to the City such evidence of compliance with all of the provisions of this Agreement as the City may reasonably request.

6. **DISBURSEMENT.** It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed $76,770.00. The City will make disbursements only upon receipt of a written disbursement request in the form provided by DEED (the "Disbursement Request") from Subrecipient acceptable to the City and DEED. Payment requests may be made no more than once per month and must be accompanied by itemized invoices from each provider to be paid or cost to be reimbursed, whether such costs are being reimbursed by the Subgrant or not, with specific reference to the eligible Project line item. The City will, upon its approval of the Disbursement Request, forward the Disbursement Request to

DEED for approval. Upon DEED approval of the Disbursement Request and receipt by the City of the approved amounts of Contamination Cleanup Grant funds, the City will disburse the approved amount of Subgrant funds in accordance with the information provided in the Disbursement Request. In order to ensure that all funds are drawn prior to the City's Contamination Cleanup Grant Agreement term end date, all payment requests must be received by forty-five (45) days prior to the End Date. The Subgrant dollars are grant funds only and cannot be used, treated or converted into any type of loan.

7. **NOTICES.** Communication and details concerning this Agreement must be directed to the following Agreement representatives:

***CITY:***
Attn: Courtney Kramlinger
10 Civic Center Plaza
Mankato, MN 56001
Telephone: (507) 387-8711
E-mail: ckramlinger@mankatomn.gov

***Subrecipient Contact Information:***
Name: Joe Brennan, Chief Manager
Company: Silos Mankato, LLC
Address: 5724 Kemrich Drive, Edina, MN 55439
Phone: 507-381-3525
E-mail: joebrennan@bcofmn.com

**8. GENERAL CONDITIONS.**

A. **General Compliance.** The Subrecipient agrees to comply with all applicable federal, state and local laws and regulations governing the Project and Contamination Cleanup Grant funds provided under this Agreement, including without limitation all applicable OSHA regulations, especially the federal Hazardous Waste Operations and Emergency Response Standards (29 C.F.R. 1910.120 and 29 C.F.R. 1926.65), Minnesota Statutes §§116J.551 - .559, and all federal Davis Bacon and related act requirements.

B. **Subcontracts.**

1. *Compliance with Laws.* The Subrecipient must require that contractors performing work being paid with the Subgrant funds comply with all applicable federal, state and local laws and regulations governing the Project.

2. *OSHA.* Subrecipient must require that contractors performing work being paid with the Subgrant funds be in compliance with all applicable OSHA regulations, especially the Federal Hazardous Waste Operations and Emergency Response Standards (29 C.F.R. 1910.120 and 29 C.F.R. 1926.65).

C. **Termination.** In the event the Contamination Cleanup Grant Agreement is terminated, this Agreement shall contemporaneously terminate. Upon termination, Subrecipient will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

D. **Independent Contractor.** Nothing contained in this Agreement is intended to, or may be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient will at all times remain an independent contractor with respect to the services to be performed under this Agreement. The City is exempt from payment of all unemployment compensation, FICA, retirement, life and/or medical insurance and workers' compensation insurance because the Subrecipient is an independent contractor.

E. **Indemnification and Hold Harmless.** The Subrecipient shall hold harmless, defend and indemnify the City and DEED from any and all liability, claims, actions, suits, charges, damages, losses, costs, expenses, and judgments whatsoever, including reasonable attorneys' fees, that arise directly or indirectly out of the Subrecipient's, its contractor's or subcontractor's performance or nonperformance under this Agreement. Claims included in this indemnification include any claims asserted pursuant to the Minnesota Environmental Response and Liability Act (MERLA), Minnesota Statutes, Chapter 115B; the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) as amended, United States Code Title 42, Sections 9601 et. seq.; and the Federal Resource Conservation and Recovery Act of 1976 (RCRA) as amended, United States Code Title 42, Sections 6901 et. seq.

F. **Insurance.**

1. *Insurance Required.* During the term of this Agreement, Subrecipient and its contractors and subcontractors rendering services being paid with funds from this Agreement shall procure and maintain Public Liability and Automobile Liability Insurance written on an "occurrence" basis under a Comprehensive General Liability Form with "Broad Form" property damage liability coverage, with XCU exclusion removed, in limits of not less than $1,500,000 per occurrence for personal injury, bodily injury and death, and limits of $1,500,000 for property damage liability, and twice the limits provided when a claim arises out of the release or threatened release of a hazardous substance. If per person limits are specified, they shall be for not less than $1,500,000 per person and be for the same coverages. Coverages of Subrecipient and its contractors/subcontractors shall include:

a. Public liability including premises and operations coverage;
b. Independent contractors' protective contingent liability;
c. Personal injury;
d. Owned, non-owned, and hired vehicles;
e. Contractual liability covering customary construction contract and subcontract indemnity provisions;
f. Products—completed operations; and
g. Workers' Compensation coverage in required statutory limits. Policy shall carry an "all states" endorsement.

2. *Additional Insurance Requirements.* All insurance required in this Article shall be taken out and maintained in responsible insurance companies organized under the laws of the United States and licensed to do business in Minnesota. City shall be named as an additional insured under the Public Liability and Automobile Liability Insurance. City does not represent or guarantee that the types of limits or coverages provided above are adequate to protect Subrecipient's interests and liabilities.

3. *Certificates of Insurance.* Certificates showing that the above-described insurance is carried in the specified amounts shall be furnished to City prior to the disbursement of any of the Subgrant proceeds, and a certificate showing continued maintenance of such insurance shall be on file with City during the term of this Agreement. The form of each certificate of insurance shall contain an unconditional requirement that the insurer notify City without fail not less than 30 days prior to any cancellation, non-renewal or modification of the policy or coverages evidenced by said certificate and shall further provide that failure to give such notice to City will render any such change or changes in said policy or coverages ineffective as against City.

4. *Contractor/Subcontractor Evidence of Insurance.* The Subrecipient must not

commence work until any and all contractors/subcontractors have obtained the required proof of insurance which clearly evidences required insurance coverages. If the Subrecipient fails to furnish proof of insurance coverages from the contractors/subcontractors when requested by the City, the City may withhold payments and/or pursue any other rights or remedy allowed under this Agreement, law, equity, and/or statute.

**9. ADMINISTRATIVE REQUIREMENTS.**

A. **Accounting Standards.** The Subrecipient agrees to maintain the necessary source documentation and enforce sufficient internal controls as dictated by generally accepted accounting practices to properly account for expenses incurred under this Agreement.

B. **Records.**

1. *Retention.* The Subrecipient shall maintain adequate financial records consistent with generally accepted accounting principles. Audits and records, including but not limited to all financial and environmental documents related to the funds provided under this Agreement, shall be accessible to authorized representatives of the City for purposes of examination and audit. In addition, the Subrecipient shall give DEED, the Legislative Auditor, and the State Auditor's Office, through any authorized representatives, access to and the right to examine all records, books, papers, and documents related to this Agreement for a minimum of six (6) years from the end of the Contamination Cleanup Grant Agreement term end date.

2. *Close-Out.* The Subrecipient's obligation to the City does not end until all close-out requirements are completed. Activities during this close-out period include: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and receivable accounts to the City), determining the custodianship of records and resolving audit findings.

C. **Procurement.** The Subrecipient must maintain an inventory record of all nonexpendable personal property procured with funds provided under this Agreement. Program income is income generated from grant-funded activities, including interest earned on grant funds. All unexpended program income must revert to the City upon termination of this Agreement.

**10. MISCELLANEOUS.**

A. **Assignability.** The Subrecipient may not assign or transfer any interest in this Agreement (whether by assignment or novation) without the prior written consent of the City; provided, however, that claims for money due or to become due to the Subrecipient from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer must be furnished promptly to the City.

B. **Antitrust.** The Subrecipient hereby assigns to the State of Minnesota any and all claims for overcharges for goods and/or services provided in connection with this contract resulting from antitrust violations which arise under the antitrust laws of the United States and the antitrust laws of the State of Minnesota.

C. **Governing Law and Venue.** This Agreement will be governed by, and construed in accordance with, the laws of the State of Minnesota. The appropriate venue and jurisdiction for any litigation hereunder shall be in a court located in Blue Earth County, Minnesota.

D. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which is deemed an original, but all of which taken together constitute one and the same agreement.

E. **Survival.** Any terms of this Agreement which by their nature extend beyond termination of this Agreement shall survive and bind the parties and their successors and assigns.

F. **Job Listing Agreement.** Minnesota Statutes §116L.66, subd.1, requires a business or private enterprise to list any vacant or new positions with the state workforce center if it receives

$200,000 or more a year in grants from the State. If applicable, the business or private enterprise shall list any job vacancy in its personnel complement with Minnesota Works.net at www.minnesotaworks.net as soon as it occurs.

G. **Government Data Practices.** The Subrecipient must comply with the Minnesota Government Data Practices Act, Minnesota Statute Chapter 13, as it applies to all data provided by City under this Agreement and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Subrecipient under this Agreement. The civil remedies of Minnesota Statute §13.08 apply to the release of the data referred to in this clause. If the Subrecipient receives a request to release the data referred to in this clause, the Subrecipient must immediately notify City. City will give the Subrecipient instructions concerning the release of the data to the requesting party before the data is released. The Subrecipient's response to the request shall comply with applicable law.

H. **Intellectual Property Rights.** In the event that Subrecipient secures a copyright protection on any of the materials, reports, or data created as part of the project, the Subrecipient agrees to and does hereby grant to the State of Minnesota and its officers, agents, and employees, acting within the scope of their official duties, a royalty-free, non-exclusive, and irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so for use by the State, its divisions, instrumentalities and local subdivisions, all material now or hereafter covered by any such copyright.

I. **Publicity.** Any publicity regarding the subject matter of this Agreement must identify the State of Minnesota as the sponsoring agency. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Subrecipient individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Agreement. For DEED logos and formatting, please contact Laura Winge at 651-259-7173 or laura.winge@state.mn.us.

J. **Payment of Contractors and Subcontractors.** The Subrecipient must ensure that all contractors and subcontractors performing work covered by this Agreement are paid for their work that is satisfactorily completed.

K. **Conflict of Interest.** The State of Minnesota through City will take steps to prevent individual and organizational conflicts of interest in reference to Subrecipient per Minn.Stat.§16B.98 and Department of Administration, Office of Grants Management, Policy Number 08-01 Conflict of Interest Policy for State Grant-Making. When a conflict of interest concerning State grant-making and subsequent City grant-making is suspected, disclosed, or discovered, transparency shall be the guiding principle in addressing it.

Organizational conflicts of interest occur when:

- a Subrecipient is unable or potentially unable to render impartial assistance or advice to City due to competing duties or loyalties.
- a Subrecipient's objectivity in carrying out the grant is or might be otherwise impaired due to competing duties or loyalties.
- a Subrecipient has an unfair competitive advantage through being furnished unauthorized proprietary information or source selection information that is not available to all competitors.

Organizational conflicts include any individual part of the Subrecipient. Individual conflicts of interest occur when:

- a Subrecipient uses his/her status or position to obtain special advantage, benefit, or access to the Subrecipient's time, services, facilities, equipment, supplies, badge, uniform, prestige, or influence.
- a City employee is an employee or board member of a Subrecipient that is an

immediate family member of an owner, employee or board member of the Subrecipient.

The City and the Subrecipient must act immediately upon any suggestion, inquiry, or intimation that an individual or organizational conflict of interest exists at any point in the grant process. Steps must be taken to identify and avoid or mitigate any potential conflicts. The conflict of interest guidelines continue throughout the life of the grant agreement.

The Subrecipient must complete and submit a Conflict of Interest Disclosure Form (See Exhibit D) indicating whether or not a perceived, potential, or actual conflict of interest exists. If the Subrecipient identifies an actual, potential or perceived conflict of interest on the form, the Subrecipient must identify and submit its conflict of interest avoidance or mitigation plan. City will review the form and the Subrecipient's individual or organizational conflict of interest avoidance or mitigation plan and other relevant facts, if needed, to determine if an actual, potential or perceived conflict of interest exists, as defined by policy or other relevant law. If it does, City will pursue appropriate actions to mitigate, neutralize, or avoid the potential, perceived or actual individual or organizational conflicts of interest. These may include, but not be limited to, termination of the grant agreement; disqualification from future grant awards, if it is determined that it improperly failed to disclose a known individual or organizational conflict of interest or misrepresented information regarding such conflict; revising the Subrecipient's duties so that the conflict is mitigated; allowing the Subrecipient to propose the exclusion of task areas that create a conflict, if appropriate; allowing the individual with the conflict to be removed from taking any actions in relation to the grant agreement.

In cases where a perceived, potential, or actual individual or organizational conflict of interest is suspected, disclosed, or discovered by the Subrecipient throughout the life of the grant agreement, they must immediately notify City for appropriate action steps to be taken, as defined above.

All of the above provisions apply to any sub- subrecipients and applicable language must be included in the Subrecipient / sub-subrecipient agreements.

L. **Severability.** In the event any provision herein shall be deemed invalid or unenforceable, the remaining provisions shall continue in full force and effect and shall be binding upon the parties to this Agreement.

M. **Entire Agreement.** This Agreement, including Exhibits A, B and C constitutes the entire Agreement between the City and Subrecipient and supersedes all prior written and oral agreements and negotiations between the parties relating to the subject matter hereto.

| **City of Mankato** | **Silos Mankato, LLC** |
| --- | --- |
| By:___________________________________ | By: __________________________________ |
| Its City Manager | Joe Brennan, Chief Manager |
| Date:_________________________________ | Date:_________________________________ |

**EXHIBIT A**
**PROPERTY MAP**

Silos


**Date:** August 2024
**Author:**

**EXHIBIT B**
**DEED CONTAMINATION CLEANUP GRANT PROGRAM**
**GRANT AGREEMENT NO. CCGP-24-0004-Z-FY24**

# STATE OF MINNESOTA
# GRANT CONTRACT AGREEMENT NO. CCGP-24-0004-Z-FY24
# The Silos Project

This grant contract agreement is between the State of Minnesota, acting through the Department of Employment and Economic Development ("State") and the city of Mankato, 10 Civic Center Plaza, Mankato, MN 56001 ("Grantee").

## Recitals

1. Under Minn. Stat. § 116J.554 the State is empowered to enter into this grant contract agreement.
2. The State is in need of programs that reduce the potential threat of harmful contaminants to the public's health and the environment, create jobs, increase local property tax, and provide other public benefits by redeveloping polluted sites.
3. Pursuant to Minn. Stat. § 16B.98, the Grantee represents that it is duly qualified and agrees to perform all services described in this grant contract agreement to the satisfaction of the State.

## Grant Contract Agreement

**1 Term of Grant Contract Agreement**

1.1 ***Effective date:***
June 14, 2024, or the date the State obtains all required signatures under Minn. Stat. § 16B.98, Subd. 5, whichever is later. Per Minn. Stat. § 16B.98, Subd. 7, no payments will be made to the Grantee until this grant contract agreement is fully executed.

1.2 ***Expiration date:***
June 30, 2027, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

1.3 ***Survival of Terms.***
The following clauses survive the expiration or termination of this grant contract agreement:
5. Reporting Requirements; 7. Monitoring and Corrective Action; 10. Liability; 11. State Audits;
12. Government Data Practices and Intellectual Property Rights; 14. Publicity and Endorsement;
15. Governing Law, Jurisdiction and Venue; 17. Data Disclosure; 18. Conflict of Interest;
19. State and Federal Environmental Standards; and 20. Minnesota Business Subsidy Law.

**2 Grantee's Duties**

2.1 ***Duties, Deliverables and Completion Dates.***
The Grantee, who is not a state employee, will perform the following duties and provide the deliverables as outlined below.

*(a)* Comply with required grants management policies and procedures set forth through Minn. Stat. § 16B.97, Subd. 4 (a)(1).

*(b)* Administer these grant funds in accordance with Minn. Stat. §§ 116J.551 through 116J.559 and the application submitted on May 1, 2024, for funding for the Silos Project, which is incorporated into this grant contract agreement and the provisions of this grant contract agreement. Any modification made to the approved application must be approved by the State.

*(c)* It is expected that the site will be cleaned up and redeveloped as proposed in the grant application and upon which funding was based. Any material changes in the cleanup plans

and/or development plans for the site must be presented to the State and approved. Promptly notify the State of any proposed material change in the scope of the project as submitted in the grant application, eligible approved Cleanup Costs as defined Section 4.1(c) of this grant contract agreement, or the project's timeline, which must be approved by the State, prior to implementation.

*(d)* Provide evidence to the State prior to the closeout of the grant that the cleanup has been completed and approved by the Minnesota Pollution Control Agency.

*(e)* Adhere to all other requirements of this grant contract agreement.

2.2 ***Provisions for Contracts and Sub-grants***

***(a) Contract Provisions***
The Grantee must include in any contract and sub-grant, in addition to provisions that define a sound and complete agreement, such provisions that require contractors and sub-grantees to comply with applicable state and federal laws. Along with such provisions, the Grantee must require that contractors performing work covered by this grant be compliant with all applicable OSHA regulations, especially the federal Hazardous Waste Operations and Emergency Response Standards (29 CFR 1910.120 and 29 CFR 1926.65).

***(b) Ineligible Use of Grant Funds***
The dollars awarded under this grant contract agreement are grant funds and shall only be used by Grantee or awarded by Grantee to third parties as grant funds and cannot take the form of a loan under any circumstance. Grantee shall not use, treat, or convert the grant funds into an interest-bearing loan, a non-interest-bearing loan, a deferred loan, a forgivable deferred loan, or any other type of loan. Further, Grantee shall include in any contract or sub-grant awarding the grant funds to a third party all the provisions and requirements of this grant contract agreement, including the requirement that these dollars are grant funds only and cannot be used, treated, or converted into any type of loan.

***(c) Payment of Contractors and Subcontractors***
The Grantee must provide evidence that all contractors and subcontractors performing work covered by this grant are paid for their work that is satisfactorily completed.

**3 Time**

The Grantee must comply with all the time requirements described in this grant contract agreement. In the performance of this grant contract agreement, time is of the essence.

**4 Consideration and Payment**

4.1 ***Consideration***
The State will pay the Grantee under this grant contract agreement as follows:

***(a) Travel Expenses***
Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Grantee as a result of this grant contract agreement are considered administrative in nature and not permitted and will not exceed $0.00; provided that the Grantee will be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the current "Commissioner's Plan" promulgated by the Commissioner of Minnesota Management and Budget (MMB). The Grantee will not be reimbursed for travel and subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out

of state. This does not include costs for contractors to complete the activities listed in Section 4.1(c), which may be considered eligible at the discretion of the State.

***(b) Program Income***

Program income generated from grant-funded activities on hand at the end of the grant period must be returned to the State unless the State has approved re-use of the income.

***(c) Eligible Costs***

The following table represents the total approved Cleanup Costs. The Grantee may not use these funds for administrative costs associated with managing this grant or the project this grant is funding. Pursuant to Minn. Stat. § 116J.552, Subd. 2, costs of implementing the response action plan (RAP) incurred before the grant award date may be eligible at the discretion of the State, if the costs were completed after the RAP was approved by the Minnesota Pollution Control Agency and the RAP was approved within 180 days of the application deadline. Costs incurred for the development of the RAP incurred prior to grant award may be considered match eligible at the discretion of the State. Any reimbursement made for services provided prior to the effective date will be governed by the terms of this grant contract agreement.

| Grant Eligible Activities | Amount |
|---|---|
| Investigation and RAP Development (match only) | $4,250.00 |
| Excavation, Transportation, and Disposal of Contaminated Soil | $29,250.00 |
| Clean Soil Backfill | $4,400.00 |
| Soil Vapor Mitigation System | $52,720.00 |
| Environmental Oversight and Reporting | $22,600.00 |
| Total | $113,220.00 |

***(d) Total Obligation***

The total obligation of the State for all compensation and reimbursements to the Grantee under this grant contract agreement will not exceed $76,770.00.

In accordance with Minn. Stat. § 116J.554, Subd. 1, the grant may pay for up to 75% of the eligible costs for a qualifying site. This requires a local match of at least 25%. For the purpose of this project, based on the budget above, the local match portion is at least $36,450.00. Of the total match requirement, 12% of the cleanup costs as defined by Minn. Stat. § 116J.552, Subd. 2 must come from the municipality's general fund, a property tax levy for that purpose, or other unrestricted money available to the municipality. The rest of the local match may be paid with tax increments, regional, state, or federal money available for the redevelopment of brownfields or any other money available to the municipality.

4.2 ***Payment***

***(a) Invoices***

The State will disburse funds to the Grantee pursuant to this Contract, based upon payment requests submitted by the Grantee and reviewed and approved by the State. Payment requests must be accompanied by supporting invoices for the activities defined in Section 4.1(c) of this grant contract agreement. The amount of grant funds requested by the Grantee cannot exceed 75% of the total approved Cleanup Costs incurred by the Grantee as supported by invoices. The State will provide payment request forms. Every effort should be made to submit invoices within the same fiscal year the costs were incurred. To ensure that all funds are drawn prior to the expiration date of the grant, the final payment request must be received at least 30 days prior to the grant-term expiration date.

*(b)* ***Unexpended Funds***
Any grant funds not reimbursed to the Grantee shall revert back to the State.

4.3 ***Contracting and Bidding Requirements***
Per Minn. Stat. § 471.345, grantees that are municipalities as defined in Subd. 1 must follow the law.

*(a)* Prevailing wage rates are required to be paid on an economic development project site if that project receives or will be receiving state financial assistance in the form of a grant where a single business receives $200,000 or more of the grant proceeds, a loan or the guaranty or purchase of a loan if a single business receives $500,000 or more of the loan proceeds, or certain tax incentives, per Minn. Stat. § 116J.871. For economic development projects subject to the prevailing wage requirements in Minn. Stat. § 116J.871, Grantee must ensure that Grantee and all contractors and subcontractors comply with applicable prevailing wage requirements including submitting all required certified payroll records, as described in Exhibit A, "Prevailing Wage Certification – Minn. Stat. § 116J.871", to the following email address: wagedata.deed@state.mn.us.

*(b)* The grantee must not contract with vendors who are suspended or debarred in MN: http://www.mmd.admin.state.mn.us/debarredreport.asp

**5 Reporting Requirements**
The Grantee must submit to the State annual reports on the use of grant funds and the progress of the Project covering July 1st through June 30th of each year. Each annual report must be received by the State no later than July 25th of each year. The annual report must identify specific Project goals listed in the application and quantitatively and qualitatively measure the progress of such goals. Grant payments shall not be made on grants, or subsequent grant awards made to the Grantee, with past due reports. In addition, the Grantee shall submit a final annual report. The State will provide annual reporting form.

**6 Conditions of Payment**
All services provided by the Grantee under this grant contract agreement must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable federal, state and local laws, ordinances, rules and regulations. The Grantee will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state or local law.

**7 Monitoring and Corrective Action**
The Grantee agrees to permit monitoring by the State to determine grant contract agreement performance and compliance with grant contract agreement provisions. The Grantee further agrees to cooperate with the State in performing and completing such monitoring activities and the Grantee agrees to implement and comply with such corrective action as is proposed by the State. The Grantee must provide any financial records, timesheets or other supporting documentation, upon the request of the State.

**8 Authorized Representative**
The State's Authorized Representative is Erin Welle, Project Manager, 180 East Fifth Street, Suite 1200, St. Paul, MN 55101, (651) 259-7453, erin.welle@state.mn.us, or his/her successor, and has the responsibility to monitor the Grantee's performance and the authority to accept the services provided under this grant contract agreement. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Grantee's Authorized Representative is Courtney Kramlinger, Economic Development Coordinator, 10 Civic Center Plaza, Mankato, MN 56001, (507) 387-8711, ckramlinger@mankatomn.gov. If the Grantee's

Authorized Representative changes at any time during this grant contract agreement, the Grantee must immediately notify the State.

**9 Assignment, Amendments, Adjustments, Waiver and Grant Contract Agreement Complete**

9.1 ***Assignment***
The Grantee shall neither assign nor transfer any rights or obligations under this grant contract agreement without the prior written consent of the State, approved by the same parties who executed and approved this grant contract agreement or their successors in office.

9.2 ***Amendments***
Any amendments to this grant contract agreement, with the exception of Grant Adjustment Notices (GANs), must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original grant contract agreement or their successors in office.

9.3 ***Grant Adjustment Notices (GANs)***
GANs must be approved by the State in writing and may require a written change request by the Grantee. A GAN may be used for non-substantive changes that do not affect grant requirements, including, but not limited to, changing grant status activity, or changing budget amounts within approved grant eligible activities that do not increase the awarded value. All other changes require formal amendment as stated in Section 9.2.

9.4 ***Waiver***
If the State fails to enforce any provision of this grant contract agreement, that failure does not waive the provision or the State's right to enforce it.

9.5 ***Grant Contract Agreement Complete***
This grant contract agreement contains all negotiations and agreements between the State and the Grantee. No other understanding regarding this grant contract agreement, whether written or oral, may be used to bind either party.

**10 Liability**
Subject to the provisions and limitations of Minn. Stat. § 466, the Grantee must indemnify, save and hold the State, its agents and employees harmless from any claims or causes of action, including attorney's fees incurred by the State, arising from the performance of this grant contract agreement by the Grantee or the Grantee's agents, employees or independent contractors. This clause will not be construed to bar any legal remedies the Grantee may have for the State's failure to fulfill its obligations under this grant contract agreement.

**11 State Audits**
Under Minn. Stat. § 16B.98, Subd.8, the Grantee's books, records, documents, and accounting procedures and practices of the Grantee or other party relevant to this grant contract agreement or transaction are subject to examination by the Commissioner of Administration, by the State granting agency and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this grant contract agreement, receipt and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later.

The Grantee shall maintain adequate financial records consistent with generally accepted accounting principles. The Grantee shall submit accounting system records that track the use of grant proceeds and all matching funds by eligible Cleanup Costs for each year in which grant disbursements and expenditures were made. The records shall reflect both expenditures and revenues and shall be submitted after all grant proceeds and matching funds have been expended or at the State's request.

**12 Government Data Practices and Intellectual Property Rights**

12.1 ***Government Data Practices***

The Grantee and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State under this grant contract agreement, and as it applies to all data created, collected, received, stored, used, maintained or disseminated by the Grantee under this grant contract agreement. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this clause by either the Grantee or the State. If the Grantee receives a request to release the data referred to in this Clause, the Grantee must immediately notify the State. The State will give the Grantee instructions concerning the release of the data to the requesting party before the data is released. The Grantee's response to the request shall comply with applicable law.

12.2 ***Intellectual Property Rights***

The Grantee represents and warrants that Grantee's intellectual property used in the performance of this grant contract agreement does not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause 10, the Grantee will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the State, at the Grantee's expense, from any action or claim brought against the State to the extent that it is based on a claim that all or part of Grantee's intellectual property used in the performance of this grant contract agreement infringe upon the intellectual property rights of others. The Grantee will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs and damages, including but not limited to, attorney fees. If such a claim or action arises or in the Grantee's or the State's opinion is likely to arise, the Grantee must, at the State's discretion, either procure for the State the right or license to us.

**13 Workers Compensation**

The Grantee certifies that it is in compliance with Minn. Stat. § 176.181, Subd. 2, pertaining to workers' compensation insurance coverage. The Grantee's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the State's obligation or responsibility.

**14 Publicity and Endorsement**

14.1 ***Publicity***

Any publicity regarding the subject matter of this grant contract agreement must identify the State as the sponsoring agency. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs and similar public notices prepared by or for the Grantee individually or jointly with others, or any subcontractors, with respect to the program, publications or services provided resulting from this grant contract agreement. For DEED logos, please contact the State's Authorized Representative.

14.2 ***Endorsement***

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

**15 Governing Law, Jurisdiction and Venue**

Minnesota law, without regard to its choice-of-law provisions, governs this grant contract agreement. Venue for all legal proceedings out of this grant contract agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

## 16 Termination

16.1 ***(a) Termination by the State***

i. **Without Case.** The State may terminate this grant contract agreement without cause, upon 30 days' written notice to the Grantee. Upon termination, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

ii. **With Cause.** The State may immediately terminate this grant contract agreement if the State finds that there has been a failure to comply with the provisions of this grant contract agreement, that reasonable progress has not been made or that the purposes for which the funds were granted have not been or will not be fulfilled. To validate that reasonable progress has been made, a Payment Request, as outlined in Section 4.2(a), must be submitted to the State on or before June 30, 2025, or such a later date requested by the Grantee and approved by the State in writing, or the State's obligation to fund the Grant may be terminated. Invoices must be for approved eligible Cleanup Costs and does not include investigation costs incurred prior to the grant award. The State may take action to protect the interests of the State of Minnesota, including the refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed.

***(b) Termination by the Commissioner of Administration***

The Commissioner of Administration may immediately and unilaterally cancel this grant contract agreement if further performance under the agreement would not serve agency purposes or is not in the best interest of the State.

16.2 ***Termination for Insufficient Funding***

The State may immediately terminate this grant contract agreement if:

***(a)*** It does not obtain funding from the Minnesota Legislature

***(b)*** Or, if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written notice to the Grantee. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the contract is terminated because of the decision of the Minnesota Legislature or other funding source, not to appropriate funds. The State must provide the Grantee notice of the lack of funding within a reasonable time of the State's receiving that notice.

## 17 Data Disclosure

Under Minn. Stat. § 270C.65, Subd. 3, and other applicable law, the Grantee consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Grantee to file state tax returns and pay delinquent state tax liabilities, if any.

## 18 Conflicts of Interest

The State will take steps to prevent individual and organizational conflicts of interest in reference to Grantees per Minn. Stat. § 16B.98 and Department of Administration, Office of Grants Management, Policy Number 08-01 Conflict of Interest Policy for State Grant-Making (Current Policies tab). When a conflict of interest concerning State grant-making is suspected, disclosed or discovered, transparency shall be the guiding principle in addressing it.

In cases where a potential or actual individual or organizational conflict of interest is suspected, disclosed, or discovered by the Grantee throughout the life of the grant contract agreement, they must immediately notify the State for appropriate action steps to be taken, as defined above.

The Grantee must complete a Conflict-of-Interest Disclosure Form.

**19 State and Federal Environmental Standards**

The Grantee must provide evidence that work performed under this grant contract agreement complies with state and federal environmental standards. An approval from the Minnesota Pollution Control Agency or other appropriate state or federal agency is required upon completion of the cleanup activities.

**20 Minnesota Business Subsidy Law**

The Grantee must comply, if appropriate, with the Minnesota Business Subsidy Law, Minn. Stat. §§ 116J.993 through 116J.995.

*(The rest of this page is left intentionally blank)*

SC #: ________

1. STATE ENCUMBRANCE VERIFICATION

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

Signed: Robin Culbertson

Date: 08/01/24

SWIFT Contract/PO No(s): 254265 PR 87945 PO 3-569618

2. GRANTEE

*The Grantee certifies that the appropriate person(s) has executed the grant contract agreement on behalf of the Grantee as required by applicable articles, bylaws, resolutions, or ordinances.*

By:________________________________________________

Title: City Manager

Date:________________________________________________

By:________________________________________________

Title:________________________________________________

Date:________________________________________________

3. STATE OF MINNESOTA: DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT

By:________________________________________________
(WITH DELEGATED AUTHORITY)

Title: Deputy Commissioner

Date:________________________________________________

Distribution:
Agency
Grantee
State's Authorized Representative

To: Minnesota Department of Labor and Industry
Prevailing Wage Compliance Unit
443 Lafayette Road N.
St. Paul, MN 55155

**Re: Prevailing Wage Certification – Minn. Stat. § 116J.871**

Name of Recipient is a recipient of financial assistance from the State Agency for the Project identified below.

As required by Minn. Stat. § 116J.871, subd. 2(a), Name of Recipient, at Business Address, Telephone Number, Email Address hereby certifies to the Commissioner of Labor and Industry, that laborers and mechanics at the project site during construction, installation, remodeling or repairs for which the financial assistance will be provided, in whole or part, will be paid the prevailing wage rate as defined in Minn. Stat. § 177.42, subd. 6. Prevailing wages paid to laborers and mechanics at the project site shall comply with the prevailing wage rates determined for Name of County County, Minnesota.

Recipient understands that failure to pay prevailing wage is a misdemeanor and that each day of violation is a separate offense under Minn. Stat. § 116J.871, subd. 3.

Project Name: Project Name

Project Start Date: Project Start Date

Project Site Address: Project Site Address

By: Authorized Representative Name
Print Name of Authorized Representative

Signature: ______________________
Signature of Authorized Representative

Its: Authorized Representative Title
Authorized Representative's Title

Date: Date Signed and Certified
Date Signed and Certified

(Page 1 of 2)

## INFORMATION FOR RECIPIENTS

Recipients must ensure all laborers and mechanics at the project site during construction, installation, remodeling or repairs for which the financial assistance from a state agency will be provided is performed under contracts that specifically include the prevailing wage rate requirements of the Minnesota Prevailing Wage Act, Minnesota Statutes sections 177.41-.44 and Minnesota Rules, sections 5200.1000-.1120 (hereinafter "MPWA").

Recipients also must ensure that contractors and their subcontractors will comply with the requirements of the MPWA, including recordkeeping, completion and submission of certified payroll reports, posting and contract requirements and the requirement that laborers and mechanics at the project site during construction, installation, remodeling or repairs for which the financial assistance will be provided are paid the applicable prevailing wage rate(s) for each classification of work they perform. These requirements and enforcement provisions are set forth at Minn. Stat. § 116J.871, subd. 2(a).

In accordance with the MPWA and because the Commissioner, pursuant to Minn. Stat. § 177.30(a)(7), has deemed certain payroll information necessary and appropriate, recipients must also ensure that each employer performing work at the project site during construction, installation, remodeling or repairs for which financial assistance from a state agency is provided will prepare, maintain as required, and provide to the Department of Labor and Industry upon request, certified payroll reports with respect to the wages and benefits paid to employees specifying for each employee: the employee's name; prevailing wage job classifications; hours worked each day; total hours; rates of pay; gross amount earned; each deduction for taxes; total deductions; net pay for week; dollars contributed per hour for each benefit, including name and address of administrator; benefit account number; and telephone number for health and welfare, vacation or holiday, apprenticeship training, pension, and other benefit programs.

These same certified payroll records must be submitted to the contracting authority no more than 14 days after the end of each pay period and retained by the employer for a minimum of three years after the final payment is made on the project. Minn. Stat. §§ 177.30, subd.(a)(7), .43, subd. 3. A sample certified payroll form is available at http://www.dli.mn.gov/sites/default/files/pdf/pw_certified_payroll_form.pdf. The state agency awarding the financial assistance is considered the contracting authority. Minn. Stat. § 116J.871, subd. 2(b).

Recipients of financial assistance from a state agency should contact the Department of Labor and Industry for applicable prevailing wage rates and guidance on how to comply with prevailing wage requirements in Minnesota Statutes, section 116J.871 and the MPWA:

Division of Labor Standards
Karen Bugar, State Program Administrative Director
443 Lafayette Road N, St. Paul, MN 55155
651-284-5091 or dli.prevwage@state.mn.us

**Email completed copy to dli.prevwage@state.mn.us or mail to the Department of Labor and Industry at the address on page 1 of this form. A copy should also be submitted to the state agency awarding the financial assistance.**

**EXHIBIT C**
**DISBURSEMENT REQUEST FORM**

**EXHIBIT D**

**Conflict of Interest Disclosure Form**

This form gives Subrecipients an opportunity to disclose any actual, potential or perceived conflicts of interest that may exist when receiving a grant. It is the Subrecipient's obligation to be familiar with the Office of Grants Management (OGM) Policy 08-01, Conflict of Interest Policy for State Grant -Making and to disclose any conflicts of interest accordingly.

All Subrecipients must complete and sign a conflict of interest disclosure form.

- ☐ I or my subgrant organization do NOT have an ACTUAL, POTENTIAL, or PERCEIVED conflict of interest.

If at any time after submission of this form, I or my grant organization discover any conflict of interest(s), I or my grant organization will disclose that conflict immediately to the appropriate agency or grant program personnel.

- ☐ I or my subgrant organization have an ACTUAL, POTENTIAL, or PERCEIVED conflict of interest. (*Please describe below*):

If at any time after submission of this form, I or my grant organization discover any additional conflict of interest(s), I or my grant organization will disclose that conflict immediately to the appropriate agency or grant program personnel.

Printed name: Joe Brennan ______________________________

Signature: ________________________________________

Title: Chief Manager ________________________________

Organization: Silos Mankato, LLC __________________________

Date: ____________________________________________