

**FIRST AMENDMENT TO JOINT POWERS
AGREEMENT BETWEEN DAKOTA COUNTY, SCOTT
COUNTY AND WASHINGTON COUNTY
FOR THE SOUTH METRO PRIVATE WELL PESTICIDE
MITIGATION PROGRAM**

WHEREAS, effective October 21, 2024 the County of Dakota (Dakota County), the County of Scott (Scott County) and the County of Washington (Washington County) entered into a Joint Powers Agreement DCA22065 (JPA) to implement the South Metro Private Well Pesticide Mitigation Program (Program), as well as establish a general framework of their roles and responsibilities regarding the Program and distribution of grant funds received by Dakota County from the Minnesota Department of Agriculture (MDA) pursuant to MDA Grant Agreement No. 256530 (Grant).

WHEREAS, Dakota County, Scott County and Washington County are hereinafter collectively referred to as "Parties" and individually as "Party." Scott County and Washington County are hereinafter collectively referred to as "Subrecipients."

WHEREAS, the MDA's total financial assistance obligation under the Grant for outreach and technical assistance activities is \$18,000 (\$6,000 to each of the counties).

WHEREAS, the MDA's total financial assistance obligation under the Grant for reverse osmosis systems is \$135,700.

WHEREAS, the Grant provides Dakota County with discretion to transfer up to 10% of the funds between categories without MDA approval; however, Dakota County is required to notify the State's Authorized Project Manager as soon as practicable after the transfer.

WHEREAS, the Grant provides that the State's Authorized Project Manager must approve transfer of funds between categories that are greater than 10%.

WHEREAS, Section 1 (Purpose) of the JPA provides, in part, that Dakota County will provide Subrecipients that portion of the Grant funding received by Dakota County for Subrecipients to administer and implement a risk mitigation program for private drinking water wells with pesticide concentrations exceeding the HRL (Subrecipient Program) in the amounts identified in the workplan outlined in Exhibit B (Program Workplan).

WHEREAS, Exhibit B (Work Plan) Guideline IV (A) and (C) (Regional Subrecipient Guidelines) of the JPA provide:

- A. Dakota County and each subrecipient will be allocated the below, on a reimbursement basis. Each subrecipient will be provided a sub-agreement to assist well owners in their county.
 - a. \$6,000 each for reimbursable time and expenses to develop and execute mitigation program within own county. Allowable billable rate will be calculated on January 1st annually.
 - b. The following will be allocated initially to each subrecipient to provide financial assistance to eligible well owners for well mitigation as outlined above. Need for further funds may be reevaluated on a regional basis

based on annual MDA pesticide sampling results and remaining available funds.

County	Pesticide Mitigation
Dakota County	\$76,000 (~56%)
Scott County	\$24,400 (~18%)
Washington County	\$35,300 (~26%)
TOTAL	\$135,700

- C. Subrecipients will be responsible for prioritizing funding needs and providing documentation to Dakota County.

WHEREAS, Section 3 (Grant of Monies) of the JPA provides:

Dakota County agrees to reimburse the Subrecipients for its costs incurred to administer and implement its Subrecipient Program up to the maximum amount identified in Exhibit B upon receipt of all documentation deemed necessary by Dakota County. The following table sets forth the percentage of those Grant funds remaining after Dakota County and the Subrecipients are reimbursed for their administrative costs identified in Exhibit B that will be available to the Parties to provide financial assistance to eligible well owners within their county to implement the Program during the period from the Effective Date through June 30, 2026 (Grant Funds). These Grant Funds will be disbursed by Dakota County to the Subrecipients on a reimbursement basis. Once the allocated dollars have expended, need for further funds will be reevaluated on a regional basis with considerations to priorities described in Exhibit A and redistributed accordingly.

County	Pesticide Mitigation
Dakota County	\$76,000(~56%)
Scott County	\$24,400 (~18%)
Washington County	\$35,300 (~26%)
TOTAL:	\$135,700

WHEREAS, The Grant provides that the MDA had identified 105 total target wells in Dakota County, Scott County and Washington County with cyanazine concentrations at or above the chronic HRL at the time of the execution of the Grant between the State of Minnesota and Dakota County.

WHEREAS, the Parties allocated the Grant Funds in the JPA and Exhibit B (Work Plan) between the Parties based on the percentage of those 105 wells in each county:

County	# Wells	% of Total
Dakota	59	56%
Scott	19	18%
Washington	27	26%
TOTALS	105	100%

WHEREAS, the Grant provides that monitoring is continuing in these counties and the number of impacted wells is expected to grow as previously untested wells are being identified and evaluated each year.

WHEREAS, the MDA's continued monitoring as of the date of this First Amendment has increased the total number of target wells with in Dakota County, Scott County and Washington County with cyanazine concentrations at or above the chronic HRL from 105 to 152:

County	# Wells	% of Total
Dakota	75	49%
Scott	29	19%
Washington	48	32%
TOTALS	152	100%

WHEREAS, outreach by the MDA and the Parties as part of the Program to the eligible well owners has provided the following information: (a) there are identified target wells that serve more than one residence; (b) there are reverse osmosis systems already serving some of the identified target wells reducing the number of residences needing at least one reserve osmosis system; (c) some eligible well owners are requesting a second reverse osmosis system under the Program; and (d) many of the eligible well owners have been non-responsive to the Parties outreach.

WHEREAS, the Parties desire to amend the JPA to provide the Dakota County discretion to transfer the Grant Funds between categories as permitted by the Grant.

WHEREAS, the Parties desire to amend the JPA to provide Dakota County discretion in the allocation of Grant Funds to the Parties for reverse osmosis systems based on demand/outreach responses received by the Parties until the Grant Funds are expended or the term of the JPA expires, whichever occurs first, rather than limiting each Party to the maximum amount identified in Exhibit B of the JPA or Section 3 of the JPA.

WHEREAS, Section 6 (Quarterly Reimbursement) provides, in part, that Dakota County will reimburse Subrecipients within thirty-five (35) calendar days of Subrecipients' submission of invoices to Dakota County.

WHEREAS, Exhibit B (Work Plan) Guideline IV (E) (Regional Subrecipient Guidelines) of the JPA provides that Subrecipients will submit invoices with supporting documentation to Dakota County quarterly documenting progress toward completion of deliverables. All payments will be reimbursed quarterly, pending MDA approval.

WHEREAS, the Parties desire to amend the JPA to provide for reimbursement to occur within thirty-five (35) calendar days of Dakota County receiving quarterly payment from the MDA rather than within thirty-five (35) calendar days of Subrecipients' submission of invoices to Dakota County.

WHEREAS, Exhibit B (Work Plan) Guideline II (Cost-Share Criteria) of the JPA provides, in part:

- A. 100 percent cost share for households with a private well that is equal to or exceeds the total cyanazine HRL of 1 microgram per liter ($\mu\text{g/L}$), or other pesticide HRL. Priority should be given to those wells with total cyanazine concentrations over the acute HRL of 3 $\mu\text{g/L}$.
- B. Pretreatment may also be included when necessary to the overall treatment process.

WHEREAS, pretreatment costs under Exhibit B (Work Plan) Guideline II (Cost-Share Criteria) (B) are no longer a reimbursable expense under the Grant.

WHEREAS, the Parties desire to amend Exhibit B (Work Plan) Guideline II (Cost-Share Criteria) to delete the pretreatment criteria and replace it with a criteria addressing scenarios were eligible well owners are seeking more than one reverse osmosis system.

WHEREAS, the Parties have not terminated the JPA pursuant to Subsection M (Termination) of Section 7 (Miscellaneous) as of date the Parties executed this First Amendment.

WHEREAS, Subsection C (iii) (Amendments) of Section 7 (Miscellaneous) provides that any amendment to the JPA must be in writing and executed by the Parties.

WHEREAS, the Parties desire to amend Sections 3 and 6 of the JPA and Exhibit B of the JPA as set forth below.

NOW, THEREFORE, the Dakota County, Scott County and Washington County agree to amend the JPA as follows in consideration of the mutual covenants contained herein:

1. Section 3 (Grant of Monies) is amended to read as follows:

Dakota County agrees to reimburse the Subrecipients for its costs incurred to administer and implement its Subrecipient Program (Administrative Funds) in accordance with **Exhibit B Guideline IV (A)(a)** upon receipt of all documentation deemed necessary by Dakota County. Dakota County agrees to reimburse the Subrecipients for financial assistance provided by Subrecipients to eligible well owners in their county for reverse osmosis systems in accordance with **Exhibit B Guideline IV (A)(b)**, and upon receipt of all documentation deemed necessary by Dakota County. Grant Funds for the costs of administration/implementation and reverse osmosis systems are limited and will be disbursed by Dakota County to the Subrecipients until the Grant Funds are expended or the term of this JPA expires, whichever occurs first.

2. The table in Section 3 (Grant of Monies) is deleted.

3. The second paragraph of Section 6 (Quarterly Reimbursement) is amended to read as follows:

Dakota County will reimburse Subrecipients within thirty-five (35) calendar days of Dakota County receiving quarterly payment from the MDA for the Subrecipients' approved reimbursable costs. All requests for reimbursement must be submitted within thirty (30) days of funding expiration. Subrecipients must certify that the requested reimbursements are accurate, appropriate, and eligible in accordance with **Exhibit A** and **Exhibit B**, and that it has documentation of the actual expenditures for which reimbursement is sought, and that such expenditures have not been otherwise reimbursed.

4. EXHIBIT B (Work Plan) Guideline II (B) (Cost-Share Criteria) is amended to read as follows:

B. Priority should be given to the following:

- a. Wells with total cyanazine concentrations over the acute HRL of 3 µg/L.
- b. Eligible well owners that do not have a reverse osmosis system will be given priority over eligible well owners that seek a second reverse osmosis system.

5. EXHIBIT B (Work Plan) Guideline IV (A) (Regional Subrecipient Guidelines) is amended to read as follows:

A. Dakota County and each subrecipient will be allocated the below, on a reimbursement basis. Each subrecipient will be provided a sub-agreement to assist well owners in their county.

- a. \$6,000 each for reimbursable time and expenses to develop and execute mitigation program within own county (Administrative Funds). Allowable

billable rate will be calculated on January 1st annually. Upon request of a Party, the Dakota County Authorization Representative may reallocate all or a portion of requesting Party's allocated Administrative Funds to those funds allocated to the requesting Party's financial assistance to eligible well owners for well mitigation in their county.

- b. The Parties will be allocated Grant Funds to provide financial assistance to eligible well owners for well mitigation as outlined above. The amount of Grant Funds allocated to each Party over the term of the JPA will be determined by the Dakota County Authorized Representative based on input from the Subrecipients' Authorized Representatives and the Parties' Liaisons, MDA annual sampling results, eligible well owner response to the MDA and Parties' outreach efforts, treatment needs (i.e., target wells with total cyanazine concentrations over the acute HRL of 3 µg/L, target wells with total cyanazine concentrations over the acute HRL of 1 µg/L, eligible well owners that do not already have a reverse osmosis system versus those requests for a second reverse osmosis system) and remaining available Grant Funds.
6. The Table in EXHIBIT B (Work Plan) Guideline IV (A)(b) (Regional Subrecipient Guidelines) is deleted.
7. This Amendment is effective and enforceable on the date that the last Party hereto signs this Amendment.
8. All other terms of the JPA shall remain in full force and effect.
9. In any case where this Amendment conflicts with the initial terms of the JPA, this Amendment shall govern.

[Remainder of this page is intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Amendment on the dates indicated below.

COUNTY OF DAKOTA

Approved by Dakota County Board
Resolution No. _____

By _____
Georg T. Fischer, Director
Physical Development Division

Date of Signature: _____

APPROVED AS TO FORM:

Assistant Dakota County Attorney

Date of Signature: _____
KS-24-384-01

COUNTY OF SCOTT

Approved by Scott County Board
Resolution No. _____

By _____
Brad Davis
Planning and Resources Management Director

Date of Signature: _____

APPROVED AS TO FORM:

Assistant Scott County Attorney

Date of Signature: _____

COUNTY OF WASHINGTON

Approved by Washington County Board
Resolution No. _____

By _____
Chair, Board of Commissioners Date

By _____
County Administrator Date

APPROVED AS TO FORM:

Assistant Washington County Attorney Date