



MINNESOTA

PUBLIC FACILITIES AUTHORITY



**CLEAN WATER FUND
POINT SOURCE IMPLEMENTATION GRANT PROGRAM
FY 2024 APPLICATION**

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MINNESOTA

PUBLIC FACILITIES AUTHORITY

Point Source Implementation Grant Application

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PROGRAM INFORMATION

The Point Source Implementation Grant (PSIG) Program is jointly administered by the Minnesota Public Facilities Authority (PFA) and the Minnesota Pollution Control Agency (MPCA).

Cities and other local governments that expect to have a PSIG eligible project ready for construction start in the spring/summer of 2024 should submit a PSIG grant application in July 2023. The application deadline is July 31, 2023.

Applicants that previously submitted a PSIG application but did not receive MPCA certification by June 30, 2023 must update the submitted application. Contact your [PFA loan officer](#) for details.

Eligible Projects

The Point Source Implementation Grant Program (Minnesota Statutes, Section 446A.073) provides 80% grants up to a maximum of \$7 million to governmental units to assist with the cost of water infrastructure project components made necessary by:

1. Wasteload reductions prescribed under an approved total maximum daily load (TMDL) plan;
2. A phosphorus concentration or mass limit that requires discharging one milligram per liter or less at permitted design flow which is incorporated into a permit issued by the MPCA;
3. Any other water quality-based effluent limit established under Minnesota Statute Section 115.03, Subd 1, (e)(8), that is incorporated into a permit issued by MPCA that exceeds secondary treatment limits; or
4. A total nitrogen concentration or mass limit that requires discharging ten milligrams per liter or less at permitted design flow.

PSIG eligible project costs include only those costs related to water infrastructure project components made necessary by one of the four criteria listed above.

PSIG Caps

Projects to improve water quality by addressing a new, more stringent permit limit can receive a PSIG grant for 80% of eligible costs up to a maximum grant of \$7 million. PSIG eligible projects can be phased and a governmental unit can potentially receive a PSIG grant for each eligible phase, up to the total maximum of \$7 million. If a governmental unit is later required by their permit to further reduce discharge of the same pollutant, the city may be eligible for another maximum grant of \$7 million.

Grant Process

To receive a PSIG grant a project must meet the following requirements:

- The project must be ranked on the MPCA's project priority list
- The applicant must submit a complete PSIG grant application to the PFA
- The applicant must submit project plans and specifications to the MPCA
- The MPCA must approve the plans and specifications and certify the project to the PFA
- The applicant must bid the project and submit as-bid construction costs to the PFA
- The applicant must show that all other necessary project funding is secured

PSIG grant funds are awarded by PFA based on a project's ranking on the MPCA project priority list and its readiness to proceed based on MPCA certification. If grant funds are available when a project is certified by MPCA, the PFA will reserve funds for the project based on the estimated cost at the time of certification or the as-bid cost, whichever is less.

Eligible drinking water treatment projects must also be ranked on the Minnesota Department of Health's (MDH) Drinking Water Revolving Fund Project Priority List (PPL). Applicants must also submit plans and specifications to MDH for drinking water treatment plant projects.

Program Requirements

- Grantees must follow the state Uniform Municipal Contracting Law and other applicable requirements (bidding, special requirements for out-of-state contractors, workers compensation, responsible contractor, etc.) in the construction of the project.
- State prevailing wage rates apply to the project (available from the Minnesota Department of Labor and Industry (DOLI), Labor Standards Division 651/284-5091 (www.DOLI.state.mn.us). The DOLI contract conditions included in **Appendix A** of this Application along with the actual MN prevailing wages must be included in all bidding documents and construction contracts for projects that receive PSIG funding.
- PSIG projects with contracts in excess of \$100,000 are subject to [Sec. 16C.16 MN Statutes](#) subdivision 13 (State Funded Contracts) which promotes the use of targeted businesses and removing barriers. Use of the Department of Administration's targeted business directory ([Equity in Procurement \(TG/ED/VO\) Directory / Minnesota Office of State Procurement \(mn.gov\)](#)) to notify prospective contractors is a way to promote the use of targeted businesses and notify them of procurement and contracting opportunities.
- PSIG recipients must comply with [Minnesota Statutes 16C.285, subd 3 \(6\)](#), responsible contractor requirement defined & verify that contractors are not currently suspended

by the federal government or the state of Minnesota or any of its departments, commissions, agencies, or political subdivisions that have authority to debar a contractor. [Suspended/Debarred Vendors / Minnesota Office of State Procurement \(mn.gov\)](#) also see [SAM.gov | Home](#).

- The PSIG program is subject to the requirements of [Minnesota Statute 16A.695](#) and the Grantee will need to file a Real Property Declaration and/or request a waiver from the filing requirements. See **Appendix C** for additional information.
- If the PSIG-funded project is on property that is leased or on a non-perpetual easement, complete the Minnesota Management and Budget [Checklist for Ground Leases and Easements](#) and submit to PFA.
- Form 4b requests information on prior incurred costs, based on invoices, for which applicants expect to request reimbursement through the PSIG grant. The PFA may limit PSIG reimbursement for costs incurred before grant award due to restrictions of available funding sources. An updated form will be requested prior to grant award. Contact your loan officer for more information.
- PSIG funds are disbursed on a reimbursement basis for eligible incurred costs that are supported by invoices.
- Grant recipients will be charged an application fee equal to one-half of one percent of the grant amount. Fees are due to the PFA at the time of execution of the grant agreement. The fee is not an eligible PSIG cost.
- PSIG recipients must display a sign with the Clean Water Legacy logo at the project site or other public location identifying that the project was built with assistance from the Clean Water, Land, & Legacy Amendment. If it is not possible to display the sign at the project site, the sign may be displayed in a public location at the Grantee's office along with a photograph of the project. An example sign layout is contained in this application package in **Appendix B**. The logo and specifications can be found at: [Legacy Logo | Minnesota DNR \(state.mn.us\)](#)

Coordination with Loan Funds

PSIG Applicants that are also seeking a loan through the Clean Water or Drinking Water Revolving Fund must also follow the CWRP/DWRP application process. This includes being listed on PFA's Intended Use Plan (IUP) within fundable range. A separate CWRP/DWRP loan application must be submitted by the deadline stated in the IUP.

Application Submittal and Deadline

APPLICATIONS MUST BE SENT VIA E-MAIL NO LATER THAN JULY 31, 2023.

Save this file to your computer and complete the forms electronically. Submit application via email as an attachment to the appropriate [PFA loan officer](#).

Applicants that previously submitted a PSIG application but did not receive MPCA certification by June 30, 2023 must submit updated application information by the July 31, 2023 deadline. Consult with PFA loan officer for guidance.

Plans and Specifications Submittal

Applicants are strongly encouraged to submit plans and specifications to the MPCA (sanitary sewer, storm sewer and drinking water projects) and plans and specifications to the MDH for drinking water projects by **March 31, 2024** in order to allow adequate review time and timely project certification by the MPCA.

Contacts

Minnesota Public Facilities Authority Loan Officers: Find your loan officer on the PFA contact page: [PFA loan officer](#)

Minnesota Pollution Control Agency: Contact the review engineer for your project or Bill Dunn at the MPCA at 651-757-2324, or see the MPCA web site at www.pca.state.mn.us/PPL for additional information.

Minnesota Department of Health: contact Chad Kolstad at 651-201-3972 or chad.kolstad@state.mn.us.

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APPLICATION FORMS

Form 1 – Checklist

ITEMS REQUIRED BY JULY 31, 2023 (submit to PFA):

- Form 1 – PSIG Checklist (this document)
- Form 2 – Project Contacts
- Form 3 – Project Information
- Form 4a – Project Costs and Schedule (Excel document)
- Form 4b – Prior Incurred Costs (Excel document)
- Form 5 – Compliance with Laws, Rules & Regulations
- Form 6 – Tax Compliance Certification Checklist
- Form 7 – Estimated Construction Cost Breakdown for PSIG Projects
- Form 8 – Grant Application Resolution - Example (Note: Form 8 includes an example, please submit copy of resolution adopted and signed by the governing body)

ITEMS REQUIRED FOR PROJECT CERTIFICATION:

Submit to the Minnesota Pollution Control Agency:

- Project plans and specifications with identification of PSIG eligible and non-eligible costs for storm, sanitary sewer and drinking water projects
- As-bid cost documentation

Submit to the Minnesota Department of Health:

- Project plans and specifications with identification of PSIG eligible and non-eligible costs for drinking water projects
- As-bid cost documentation

ADDITIONAL ITEMS REQUIRED PRIOR TO GRANT AWARD:

Submit to the Minnesota Public Facilities Authority:

- Final Form 4a Project Costs & Schedule based on bid costs
- Final Form 4b Prior Incurred Costs
- As-bid costs and bid tabulations
- Documentation that complete project funding is in place (resolution from local government with commitment of local funds, award letter from other state/federal funding sources)
- Copy of adopted/enacted user charge system and ordinance
- Inter-municipal Agreement (enacted) if more than one municipality is involved in project
- Management Contract: If the recipient has engaged a private contract operator to manage its wastewater, drinking water or storm water system, submit a copy of the management contract

(Note: Form 6 (Tax Compliance Checklist) is submitted with the application and requests attorney or bond counsel review of use agreements for conformance with IRS tax-exempt rules and regulations)

- Completed Minnesota Management and Budget [Checklist for Ground Leases and Easements](#) for non-permanent easements or if the PSIG-funded project is located on leased land.

ITEMS TO PFA AFTER GRANT AWARD AND PRIOR TO GRANT DISBURSEMENT:

- Payment of application fee (one-half of one percent of grant amount). The application fee must be paid prior to execution of the Grant Agreement.
- Disbursement Request Forms and supporting documentation for eligible expenses

ITEMS REQUIRED AFTER AWARD:

- Real Property Declaration and/or Waiver from Real Property Declaration filing requirements (see Appendix C)
- Photograph of Clean Water Legacy Sign posting (email to PFA Loan Officer (see Appendix B))

Form 2 – Project Contacts

Applicant Information

Applicant Name _____

County _____

UEI Number _____

MN SWIFT Vendor ID Number (10 digits) _____

MN SWIFT Vendor Suffix Number (3 digits) _____

Contact Person _____ Telephone _____

Contact Person Title _____ E-mail _____

Address _____

Authorized Agreement Signers

Authorized Signer #1 Name _____

#1 Title _____

Authorized Signer #1 Email _____

Authorized Signer #2 Name _____

#2 Title _____

Authorized Signer #2 Email _____

Will a Public Utilities Commission be responsible for operation & maintenance of the project? If so, provide information below.

PUC Contact Person _____ Telephone _____

PUC Title _____ E-mail _____

Address _____

Consultants and Advisors

Consulting Engineer Name _____ Telephone _____

Engineering Firm _____ E-mail _____

Person responsible for Minnesota prevailing wage compliance monitoring

Name _____ Telephone _____

Firm _____ E-mail _____

MPCA Review Engineer

Name _____ Telephone _____

Form 3 – Project Information

Project Name as stated on the PPL: _____

Is the project listed on the 2023 PPL? Yes No

MPCA Project Number: _____

If not, has applicant submitted a 2024 PPL request to MPCA/MDH? Yes No

Description of project to be financed (attach additional sheets if necessary):

Identify the Project Type:

- Wastewater
- Stormwater
- Drinking Water

Check which applies to the project seeking funding:

- Wasteload reduction prescribed under a TMDL Plan:
Receiving Water _____
Title and year of Approved TMDL (if applicable) _____
Pollutant of concern _____

- Phosphorus concentration/mass limit of 1 mg/L or less in MPCA permit

Other water quality-based effluent limit (WQBEL) that exceeds secondary treatment limits in MPCA permit:

Permit Date _____

Pollutant _____

Pollutant _____

Pollutant _____

Pollutant _____

Total nitrogen limit of 10 mg/L or less (land based treatment)

Other Proposed Sources of Project Financing (in addition to the Point Source Implementation Grant)

Source	Amount Requested	Contact Person/Phone	Status
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Additional information on other sources of project financing:

Project Schedule - provide estimated or actual dates for:

Submission of Plan & Specification to PCA _____
(Note if DW project, Plans & Specifications must also be submitted to MDH)

Advertising for Bids _____

Open bids _____

Award bids _____

Start Construction _____

End Construction _____

Specify the sources of revenue that will be used to operate and maintain the system. Include copy of current rate ordinance(s) and projected annual revenues and operation/maintenance expenses when project begins operation.

Identify whether the project site(s) are owned by the applicant, leased by the applicant, or other (specify):

If the project involves a lease or a non-permanent easement, complete the Minnesota Management and Budget [Checklist for Ground Leases and Easements](#) and submit it to PFA.

Will any of the project occur in or along or cross a State Trunk Highway? Please explain.

Is there a contract/agreement with another entity to operate or manage the sewer system (i.e. private operator agreement)? If yes, please submit a copy of the contract/agreement.

Yes

No

For Wastewater Projects, identify who will prepare and submit the Performance Certification (including as-built plans, Operation & Maintenance Manual, and related items) to MPCA:

Consulting Engineer Name _____ Telephone_____

Engineering Firm _____ E-mail _____

Address _____

Form 4a – Project Costs and Schedule Example

Please use the excel document found on the PFA website.

Minnesota Public Facilities Authority Point Source Implementation Grant Program Form 4a - PSIG Project Costs					
Applicant:			Date:		
Project:			Project Costs Based on:	Select from drop-down list	
MPCA Project No:			MPCA Review Engineer		
<i>Instructions: Fill in yellow cells. See notes at bottom.</i>					
	COLUMN A	COLUMN B	COLUMN C	COLUMN D	COLUMN E
	Start Date	End Date	Total Project Costs	ESTIMATED PSIG COSTS (made necessary by PSIG eligible requirement)	Estimated PSIG Eligible %
1. Construction Costs					
Wastewater Treatment					
Sanitary Sewer Collection					
Stormwater Treatment					
Other:					
<i>Subtotal - Construction</i>			\$ -	\$ -	
2. Non Construction Costs: Engineering / Other					
Planning / Pre-design				\$ -	
Engineering Design (prep of plans & specs)				\$ -	
Inspection / Construction Mgmt				\$ -	
Land Acquisition				\$ -	
Legal / Other				\$ -	
<i>Subtotal - Engineering / Other</i>			\$ -	\$ -	
3. Contingencies (5% of construction)			\$ -	\$ -	
Total Project Costs			\$ -	\$ -	

Total PSIG Eligible Cost	\$ -
Estimated PSIG Grant: (PSIG Eligible Cost x 80%, \$7 million max)	\$ -

Total project cost:	\$ -
minus estimated PSIG grant:	\$ -
Additional project funding needed:	\$ -

Other funding:	fill in source	\$ -
Other funding:	fill in source	\$ -
Other funding:	fill in source	\$ -
Total additional funding:	\$ -	\$ -
Balance needed:	\$ -	\$ -

Notes:

COLUMN A: For each activity, identify the **START DATE** on which eligible costs were, or are expected to be, incurred. On Form 4b (see tabs below), identify specific prior incurred costs for which the recipient will request reimbursement based on invoices. The PFA may limit PSIG reimbursement for costs incurred prior to the grant award due to restrictions of the funding source. Submit an updated form prior to grant award. Contact your loan officer for more information.

COLUMN B: For each activity, identify the expected **END DATE** for which the work will be completed.

COLUMN C: Identify the **TOTAL PROJECT COSTS** (wastewater, stormwater or drinking water)

COLUMN D: Identify the **ESTIMATED PSIG ELIGIBLE COSTS, those made necessary by:** 1) wasteload reductions prescribed by a TMDL; 2) a phosphorus concentration or mass limit to reduce the discharge of total phosphorus to one milligram per liter or less; 3) to address the water quality-based effluent limits under M.S. 115.03, Subd 1(e)(8); or 4) to meet a total nitrogen limit of 10 mg/L for land based treatment. **ATTACH A DETAILED BREAKDOWN** of the estimated PSIG eligible construction costs on a separate sheet (see Form 7). The Minnesota Pollution Control Agency will determine the grant eligible portion of the total construction costs.

COLUMN E: The worksheet will calculate the estimated PSIG eligible percentage based on the estimated PSIG eligible costs in Column D compared to total project costs in Column C. This same percentage will be applied to contingencies and engineering/other project costs.

Form 5 – Compliance with Laws, Rules and Regulations

Point Source Implementation grantees are required to comply and ensure their contractor(s) comply with certain state laws, rules and regulations including but not limited to those described below which will be invoked as a condition of the grant.

1. Minnesota Statutes, Section 16B.31, subdivision 2 requires that all project funding be in place prior to execution of grant agreement.
2. Minnesota Statutes, Section 471.345 Uniform Municipal Contracting Law.
3. Minnesota Statutes, Section 574.26 to 574.32, the Public Contractors' Performance and Payment Bond Act, as applicable.
4. Minnesota Statutes, Chapter 16C.285, as amended. Responsible Contractor Requirements. Solicitation documents must include the specified language for contracts, debarment checks of contractors.
5. Minnesota Statutes, Chapter 16A.695, State Bond Financed Property.
6. Minnesota Statutes 16C.16, subd 13, Promote Use of Targeted Businesses.
7. Minnesota Statutes, Chapter 13, the Minnesota Government Data Practices Act.
8. Minnesota Statutes, Section 181.59, discrimination on account of race, creed, or color prohibited in contracts. Minnesota Statutes, Section 363A.08 prohibits unfair discrimination practices related to employment or unfair employment practices.
9. Minnesota Statutes Chapter 363 Minnesota Human Rights Act. Requires that all public services be operated in such a manner that does not discriminate against any person in the access to, admission to, full utilization of or benefit from such public service.
10. The recipient's Minnesota Pollution Control Agency permit construction schedule submissions. Submissions may include as-built plans and specifications, revised operation and maintenance manual or a certification of completion. Refer to the MPCA permit and construction schedule.
11. Minnesota Statutes sections 176.181 - 176.182 - Requires recipients and subcontractors to have worker's compensation insurance coverage.
12. Minnesota Statutes 177.41 - 177.43 Prevailing Wage Rate Law. Requires that contractors pay laborers and mechanics prevailing wages established by the Minnesota Department of Labor and Industry for public works projects. The Grantee will ensure that the proper state prevailing wages and required contract conditions are included in bidding documents and in construction contracts.

13. Minnesota Statutes 290.9705. Requires that 8 percent of payments made to out-of-state contractors be withheld once cumulative payments made to the contractor for work done in Minnesota exceed \$50,000 in a calendar year, unless an exemption is granted by the Department of Revenue.

14. Laws of Minnesota 2010 Chapter 361, article 3, section 5(b). Clean Water Fund sign posting requirements.

The _____ certifies that it has or will comply with the above requirements
(Name of Grantee)

(Signature of Authorized Official) _____
Date

(If digital signature is not available, print, sign and return signed form with application)

Form 6 – Tax-Compliance Certification Checklist

Applicant: _____

Person Completing Form: _____

Date Form Completed: _____

Applicant’s Tax Compliance Officer: _____

Description of Financed Assets: _____

Item	Question		Response Yes/No
Ownership	1	Does the Applicant own all of the project assets to be financed (land, facilities, buildings)?	
Lease and Other Rights	2	Is any part of a Financed Asset leased pursuant to a lease or similar agreement for more than 50 days?	
Management or Services Agreements	3	Has the Applicant entered into an agreement with another entity to manage the operation of the Financed Assets? (for example, does a private company operate the System on behalf of the Applicant)	
Output Agreements & Other Use	4	Has the Applicant entered into any agreement with an individual or entity that grants special legal rights to the Financed Asset or permits any entity to purchase output of the system other than at retail (e.g., has the Applicant entered into a take agreement, a take or pay agreement, a requirements agreement, or similar agreement related to output from the Financed Assets)?	
Legal Review	5	If the answer to 2, 3 or 4 is “Yes”, has the City’s attorney or bond counsel reviewed the agreements for conformance with IRS tax-exempt rules and regulations?	

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Form 7 – Estimated Construction Cost Breakdown for PSIG Projects

Further describe the construction costs from Form 4a Section 1 and identify the specific components and estimated cost of those components that are made necessary for treatment of the PSIG pollutant. Attach a spreadsheet showing the engineer's estimates or as-bid schedule of values with project costs broken out by line items.

For each applicable line item in the spreadsheet, indicate the percentage of that line item's costs necessary for treatment of the PSIG pollutant. Include calculations for how the percentage of the line item costs necessary to treat for the PSIG pollutant were determined.

Please use whatever format best documents the PSIG costs. Include a general description of how the water infrastructure project costs are made necessary by:

- an established TMDL wasteload allocation or permit limit
- a phosphorus concentration or mass limit
- other water quality-based effluent limit
- a total nitrogen concentration or mass limit that requires discharging 10 mg/L or less at permitted design flow

Also see [MPCA Guidance on Wastewater and Water Treatment Component Eligibility \(state.mn.us\)](https://state.mn.us/mPCA/guidance-on-wastewater-and-water-treatment-component-eligibility)

Refer questions to your MPCA Engineer.

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Form 8 – Grant Application Resolution Example

RESOLUTION AUTHORIZING THE (applicant) TO SUBMIT A POINT SOURCE IMPLEMENTATION GRANT APPLICATION TO THE MINNESOTA PUBLIC FACILITIES AUTHORITY (PFA) AND TO AUTHORIZE CITY OFFICIALS TO EXECUTE A GRANT AGREEMENT ON BEHALF OF THE (applicant) FOR THE (name of project)

WHEREAS, the Point Source Implementation Program, established in Minnesota Statutes 446A.073, as amended provides funds for construction projects; and

WHEREAS the (applicant) is hereby applying to the Minnesota Public Facilities Authority for a funds to be used for eligible costs for the (describe project).

BE IT RESOLVED that the (name of applicant) has the legal authority to apply for the grant, and the financial, technical, and managerial capacity to ensure proper construction, operation and maintenance of the project for its design life.

BE IT FURTHER RESOLVED, that upon approval of its application by the PFA, (applicant) may enter into an agreement with the PFA for the above referenced project, and that (applicant) certifies that it will comply with all applicable laws and regulations as stated in all contract agreements described in the Compliance listing of the grant application.

NOW, THEREFORE BE IT FURTHER RESOLVED, that (title of first authorized official) and (title of second authorized official), or their successors in office, are hereby authorized to execute such agreements, and amendments thereto, as are necessary to implement the above project on behalf of the (applicant).

I CERTIFY THAT the above resolution was adopted by the (Governing Body) on (month, day, year).

SIGNED:

WITNESSED:

Date: _____

Date: _____

S E A L

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APPENDIX A - State of Minnesota Prevailing Wages

This language must be included in all bid specifications and construction contracts:

Pursuant to Minnesota Statutes 177.41 to 177.44 and corresponding Rules 5200.1000 to 5200.1120, this contract is subject to the prevailing wages as established by the Minnesota Department of Labor and Industry. Specifically, all contractors and subcontractors must pay all laborers and mechanics the established prevailing wages for work performed under the contract. Failure to comply with the aforementioned may result in civil or criminal penalties.

Insert the applicable Minnesota wage determination into all proposals and all contracts.

Payrolls/Records

The contractor and subcontractor shall furnish to the OWNER copies of any or all payrolls not more than 14 days after the end of each pay period. The payrolls must contain all of the data required by Minnesota Statutes Section 177.30. Subcontractors must furnish payrolls to the contractor. The OWNER may examine all records relating to wages paid laborers or mechanics on work to which Minnesota Statutes Sections 177.41 to 177.44 apply.

Posting of Wage Rates/Required Posters

Each contractor and subcontractor performing work on a public project shall post on the project the applicable prevailing wage rates and hourly basic rates of pay for the county or area within which the project is being performed, including the effective date of any changes thereof, in at least one conspicuous place for the information of the employees working on the project. The information so posted shall include a breakdown of contributions for health and welfare benefits, vacation benefits, pension benefits, and any other economic benefits required to be paid.

For more information regarding prevailing wage and its application, contact:

Minnesota Department of Labor and Industry
Prevailing Wage unit
443 Lafayette Road N.
St. Paul, MN 55155
Phone: (651) 284-5091
E-mail: dli.prevwage@state.mn.us
Web: www.DOLI.state.mn.us

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APPENDIX B - Sign for Clean Water Legacy Funded Projects

The template on the following page can be used for the project sign. If the Clean Water Legacy sign is posted at a location other than the project site, this template can be used to include a photograph of the project along with a brief description.

This project is financed by the

mⁿ MINNESOTA
PUBLIC FACILITIES AUTHORITY
including funds from the Clean Water, Land, and Legacy Amendment



If posted at a location other than the project site, insert a brief description and project picture

APPENDIX C - Real Property Declaration and Waiver Requirements

A recipient receiving PFA funds that include state general obligation bond proceeds is required to:

- Record a Real Property Declaration that identifies the properties on which the recipient uses PFA funds as state bond financed property
- Request a waiver from the recording requirement, and sign a Waiver Certification

Some projects require both a Real Property Declaration and a waiver.

Recipients must provide a copy of the recorded Declaration and/or signed Waiver Certification and/or a copy of the recorded Declaration to PFA and MMB prior to disbursement of money for construction activities or as soon thereafter as possible.

Real Property Declaration - The recorded **Real Property Declaration** places limitations on the use and sale of real property improved with state bond proceeds under Minn. Stat. Sec. [16A.695](#) and the *Fourth Order Amending Order of the Commissioner of Finance* dated July 30, 2012 (the “Commissioner’s Order”). Some activities needing this: treatment plants, ponds, lift stations and water towers. Recipients should have an attorney draft the **Declaration** and confirm the accuracy of the recordable parcel(s).

Real Property Declaration Recording Waiver - Section 7.02 of the *Commissioner’s Order* allows the Commissioner of Minnesota Management and Budget (MMB) to waive the declaration recording requirement for projects or portions of projects located within roads, highways or utility or transit corridors, easements or rights of way where recording would be problematic. If your project, or a portion of it fits this description, the recipient should request a waiver from the recording requirement from MMB.

If MMB grants the waiver from the recording requirement, the recipient will need to sign a **Waiver Certification** for those parts of the project, in which the recipient acknowledges that those project areas are “state bond financed property”. A description (legal description not needed) and/or map of the project areas should be attached to the **Waiver Certification**.

The following documents are attached:

- **Example Real Property Declaration**
- **Example Form letter to MMB**, which can be modified to transmit the recorded **Declaration**, request a waiver, or both.
- **Example MMB Waiver Certification**

FOR USE BY FILING OFFICER ONLY

**Minnesota Public Facilities Authority
REAL PROPERTY DECLARATION**

The undersigned has the following interest in the real property located in the County of «**County_**», State of Minnesota, that is legally described in **Exhibit A** attached and all facilities situated thereon (collectively, the “Restricted Property”):

(Check the appropriate box.)

a fee simple title

a lease

an easement,

and as owner of such fee title, lease or easement, does hereby declare that such interest in the Restricted Property is made subject to the following restrictions and encumbrances:

A. The Restricted Property is bond financed property within the meaning of Minn. Stat. Sec. 16A.695, is subject to the encumbrance created and requirements imposed by such statute, and cannot be sold, mortgaged, encumbered or otherwise disposed of without the approval of the Commissioner of Minnesota Management and Budget, which approval must be evidenced by a written statement signed by the said commissioner and attached to the deed, mortgage, encumbrance or instrument used to sell or otherwise dispose of the Restricted Property; and

B. The Restricted Property is subject to all of the terms, conditions, provisions, and limitations contained in that certain Agreement between the Minnesota Public Facilities Authority and «**RecipientName**» for Project No. «**ProjectNo**», and dated «**ApprovalDate**»;

The Restricted Property shall remain subject to this State of Minnesota General Obligation Bond Financed Declaration for 125% of the useful life of the Restricted Property or until the Restricted Property is sold with the written approval of the Commissioner of Minnesota Management and Budget, at which time it shall be released therefrom by way of a written release in recordable form signed by both the Chair of the Minnesota Public Facilities Authority and the Commissioner of Minnesota Management and Budget, and such written release is recorded in the real estate records relating to the Restricted Property. This Declaration may not be terminated, amended, or in any way modified without the specific written consent of the Commissioner of Minnesota Management and Budget.

Exhibit A

LEGAL DESCRIPTION

INSTRUCTIONS FOR REQUESTING A WAIVER FROM REAL PROPERTY
FILING REQUIREMENTS & EXAMPLE CERTIFICATION

Per the Minnesota Management and Budget's (MMB) *Fourth [Order](#) Amending Order of the Commissioner of Finance* dated July 30, 2012 (the "Commissioner's Order"), waiver requests may be submitted to the real property declaration filing requirement for projects that "acquire or better real property within roads, highway or utility or transit corridors, easements or rights of way" where the recording of the "declaration otherwise required would be unduly onerous or impracticable". An example letter to MMB is attached.

Provide the following information for MMB's evaluation:

1. A formal request to Roger Behrens on behalf of the Commissioner of MMB and justification by the City for waiver of Real Property Declaration requirement in accordance with Section 7.02 (b) of the Order.
2. Identify the PFA program (Point Source Implementation Grant (PSIG)) that is expected to finance the project.
3. A project description as determined within the application
4. A map reflecting actual location of property to be improved

Submit the request electronically to Roger Behrens (roger.behrens@state.mn.us) at MMB for review and response.

Please also copy your PFA loan officer on the waiver request email.

Important: If MMB approves the waiver request, approval will be granted conditionally until MMB and PFA's receipt of a signed waiver certification. PFA will e-mail a personalized certification form to the recipient after grant approval. An example certification form is on the following page. The signed waiver certification form is to be provided to MMB and PFA prior to disbursement of money for construction activities. Some projects may include components that will require both a real property declaration and a waiver certification..

Contact your [PFA loan officer](#) with any questions.

(Example of Letter Requesting a Waiver)

(Put on City Letterhead)

_____, 20____

Commissioner of Minnesota Management and Budget
c/o Capital Bonding Coordinator
Minnesota Management and Budget
400 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Via email
roger.behrens@state.mn.us

RE: Real Property Declaration Waiver Request - _____ Project
MPFA-_____ *[insert MPFA project no.]*

Dear Commissioner:

The City of _____ has submitted an application to the Minnesota Public Facilities Authority (“PFA”) requesting funding for a project within its jurisdiction. The project will be funded with a PFA *[include only the applicable funding sources:]* Clean Water Revolving Fund Loan/Drinking Water Revolving Fund Loan/Wastewater Infrastructure Grant/Point Source Implementation Grant. As described in the application to the PFA, the project is as follows:

[describe project]

The financing above will be funded in whole or in part with State bond proceeds, and the City must comply with the requirements applicable to Real Property Declarations set forth in Section 7.02 of Minnesota Management and Budget’s (MMB’s) *Fourth Order Amending Order of Commissioner of Finance* dated July 30, 2012 (the “Commissioner’s Order”).

[use one of the following two paragraphs:]

[if the entire project is eligible for a waiver] This letter constitutes the City’s written request for a waiver of the Declaration requirement because the entire project lies within roads, highways or utility or transit corridors, easements or rights of way, and the recording of the Declaration against such property would be unduly onerous or impracticable. I understand that the City will have to sign a Waiver Certification that the property improved by the funding described above is State bond financed property and cannot be sold, encumbered or otherwise disposed of without the approval of the Commissioner of MMB.

[if only a portion of the project is eligible for a waiver] This letter constitutes the City's written request for a waiver of the Declaration requirement only for the portion of the project within roads, highways or utility or transit corridors, easements or rights of way, and the recording of

the Declaration against such property would be unduly onerous or impracticable. I understand that the City will have to sign a Waiver Certification that the property subject to the waiver is State bond financed property and cannot be sold, encumbered or otherwise disposed of without the approval of the Commissioner of MMB. I also understand that the City will be required to record a real property Declaration for the remaining parcel(s) of land in the project that is/are not eligible for the waiver, stating that such parcel(s) is/are State bond financed property and cannot be sold, encumbered or otherwise disposed of without the approval of the Commissioner of MMB.

I am including for your review a map which shows the location of the project. If you need any additional information, please contact me at (____)_____.

Sincerely,

cc: _____, PFA *[insert name of PFA loan officer]*

Example Minnesota Management and Budget
Waiver Certification

State of Minnesota
General Obligation Bond Financed Property

The undersigned has a fee simple, leasehold and/or easement interest in the real property located in the County(ies) of _____, State of Minnesota that is generally described or illustrated graphically in **Exhibit A** attached and all facilities situated thereon (the "Restricted Property") and acknowledges that the Restricted Property is or may become State bond-financed property. To the extent that the Restricted Property is or becomes State bond-financed property, the undersigned acknowledges that:

- A. The Restricted Property is state bond financed property within the meaning of Minn. Stat. Sec. 16A.695, is subject to the encumbrance created and requirements imposed by such statute, and cannot be sold, mortgaged, encumbered or otherwise disposed of without the approval of the Commissioner of Minnesota Management and Budget;
- B. The Restricted Property is subject to the provisions of the _____ *[title of grant or loan agreement]* between _____ *[State agency providing the grant or loan]* and _____ *[name of undersigned grantee or borrower]*, dated _____, 20__; and
- C. The Restricted Property shall continue to be deemed state bond financed property for 125% of the useful life of the Restricted Property or until the Restricted Property is sold with the written approval of the Commissioner of Minnesota Management and Budget.

Date: _____, 20__

_____, a

[name and description of the grantee or borrower]

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Exhibit A
GENERAL DESCRIPTION OF RESTRICTED PROPERTY

[Insert a narrative or graphic description of the Restricted Property. It need not be a legal description.]

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