

SUB-GRANT AGREEMENT
(Bassett Creek Main Stem Erosion Repair Project)
(Hennepin County Environmental Response Fund Grant)

THIS SUB-GRANT AGREEMENT (“Agreement”) is made as of this ____ day of _____, 2018, by and between the Bassett Creek Watershed Management Commission, a Minnesota joint powers organization (“Commission”), and the City of Minneapolis, a Minnesota municipal corporation (“City”).

WHEREAS, Commission entered into a grant agreement with Hennepin County in June 2017 (the “Grant Agreement”), a copy of which is attached hereto as Exhibit A and is incorporated herein and made part of this Agreement; and

WHEREAS, the Grant Agreement provides that Hennepin County will grant to Commission a sum not to exceed One Hundred Fifty Thousand Three Hundred and No/100 Dollars (\$150,300.00), which funds shall be used to perform the duties and tasks specified in the Grant Agreement related to the removal and disposal of contaminated sediments during construction of the Bassett Creek Main Stem Erosion Repair Project (the “Project”); and

WHEREAS, Commission will pass the funds provided in the Grant Agreement through to City to implement the Project as provided in this Agreement; and

WHEREAS, Commission and City have agreed for City to assume certain duties and responsibilities of Commission under the Grant Agreement in consideration of receiving funds provided for in the Grant Agreement and subject to the terms, conditions, and limitations set forth therein.

NOW, THEREFORE, in consideration of the premises and the mutual promises set forth herein, the parties hereto covenant and agree as follows:

1. Grant Funds. Commission agrees to forward to City funds received under the Grant Agreement for the Project based upon approved reimbursement requests received from the City and conditioned on City’s continuing compliance with its obligations hereunder.

2. City Obligations. City will perform and satisfy certain obligations of Commission under the Grant Agreement. Specifically, but without limiting the foregoing, City will perform all of the following with respect to the Project and in satisfaction of Grant Agreement obligations:

- (a) City will perform, or participate in, all elements of the Project as described in Exhibit A of the Grant Agreement, as it may be amended, and will properly document expenses, including time and materials, in the manner expressed in the Grant Agreement and will provide information to the Commission to aid in semi-annual and accurate grant reporting. Any amendments made to the Grant Agreement, including its exhibits, are incorporated in and made part of this Agreement by reference.

- (b) City will comply with all requirements and conditions of the Grant Agreement applicable to the Project that, by their nature, must be performed by City rather than Commission and that are conditions of award of funds under the Grant Agreement.
- (c) The times of performance and expiration of City's obligations under this Agreement shall be as provided in the Grant Agreement.
- (d) City will provide invoices for reimbursement in accordance with the requirements of the Grant Agreement.
- (e) City will comply with all applicable federal, state, and local laws, rules, regulations, and ordinances in constructing the Project.
- (f) City will take all other actions as are needed to ensure compliance with the Grant Agreement and provide such information and assistance to the Commission as may be needed to ensure the Commission can comply with the requirements of the Grant Agreement that, by their nature, must be performed by the Commission rather than the City.

3. City Reimbursement. City will be reimbursed from the funds received through the Grant Agreement for grant eligible costs incurred in performing its obligations in accordance with this Agreement. Reimbursements will be forwarded to City following completion of work by the City from grant funds received by Commission from Hennepin County. City will provide such invoices or other evidence of expenses incurred as may be required by the Commission or by Hennepin County under the Grant Agreement. The Commission shall have no obligation to reimburse the City for any amounts that exceed the amount of the grant received by the Commission under the Grant Agreement.

4. No Assignment. City may neither assign nor transfer any rights or obligations under this Agreement without the prior consent of the Commission and an assignment agreement executed and approved by the parties.

5. Amendments. Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the parties.

6. No Waiver. If Commission fails to enforce any provisions of this Agreement, such failure does not waive the provision or Commission's right to enforce it.

7. Entire Agreement. This Agreement contains all negotiations and agreements between Commission and City. No other understanding, agreements or understandings regarding the Grant Agreement, or this Agreement, may be used to bind either party.

8. Indemnification. City will indemnify, defend, and hold harmless the Minnesota Board of Water and Soil Resources and Commission, its officers, agents, and employees, from any claims or causes of action, including attorney's fees incurred by Commission, arising from the performance of this Agreement by City, or its officers, agents or employees.

9. Audit. City's books, records, documents and accounting procedures and practices relevant to this Agreement are subject to examination by Hennepin County and/or the state auditor or legislative auditor, as appropriate, for a minimum of six years from the end of this Agreement.

10. Data Practices. City shall comply with applicable provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13. If City receives a request to release data referred to in this paragraph, City must immediately notify Commission. Commission will give City instructions concerning the release of the data to the requesting party, prior to such release.

11. Workers' Compensation. City certifies that it is in compliance with Minnesota Statutes, section 176.181, subdivision 2, pertaining to workers' compensation insurance coverage. City's employees and agents will not be considered employees of Commission. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of employees of City, and any claims made by any third party as a consequence of any act or omission on the part of such employees are in no way the obligation of Commission or Hennepin County.

12. Publicity. Any publicity regarding the subject matter of this Grant Agreement must identify Hennepin County as a source of funding and the Bassett Creek Watershed Management Commission as a sponsoring agency. Publicity shall include information identified in the Grant Agreement to the extent required herein. City must not claim that Hennepin County or Commission endorses its products or services.

13. Applicable Law. The law governing the obligations of this Agreement and the venue for all legal proceedings associated therewith shall be in accordance with the Grant Agreement.

14. Termination. This Agreement is subject to termination in accordance with the termination provision of the Grant Agreement. However, the provisions in the Grant Agreement regarding Liability, State Audits, Government Data Practices, Intellectual Property, and Governing Law, Jurisdiction and Venue will survive termination or cancellation of this Agreement or of the Grant Agreement.

15. Conditioned. This Agreement is conditioned on approval by Hennepin County to the extent such approval is required by the Grant Agreement.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first written above.

BASSETT CREEK WATERSHED
MANAGEMENT COMMISSION

By: _____
Its Chair

And by: _____
Its Secretary

Date: _____

CITY OF MINNEAPOLIS

Approved as to Form By:

Assistant City Attorney

Approved: _____
Department Head responsible for Administering and
Monitoring this Contract

Countersigned _____
Finance Officer Designee

EXHIBIT A
Grant Agreement

[attached hereto]