

**AGREEMENT BETWEEN THE CITY OF BLOOMINGTON  
AND GREAT RIVER GREENING**

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2016 between the City of Bloomington, a Minnesota municipal corporation located at 1800 West Old Shakopee Road, Bloomington, Minnesota 55431 (hereinafter referred to as the "City"), and Great River Greening, located at 35 West Water St., St. Paul, MN 55107 (hereinafter referred to as the "Contractor").

**WITNESSETH**

**WHEREAS**, the City desires to remove negatively invasive plant species and restore native plants and vegetation to approximately 20 acres of City owned land in the Minnesota River Valley; and

**WHEREAS**, the Contractor represents that it has the professional expertise and capabilities to provide this service; and

**WHEREAS**, the City desires to have the Contractor provide services for invasive species removal and native plant and vegetation restoration work, hereinafter referred to as "Project";

**NOW, THEREFORE**, in consideration of the terms and conditions expressed herein, the parties agree as follows:

**I. TERM OF AGREEMENT**

The term of this Agreement shall be from the date the Agreement is approved to no later than June 30, 2019, subject to termination as provided in Article V. The total estimated cost of the project is ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000) as outlined in sections IIA, IIB, and IIIA.

**II. DUTIES OF CONTRACTOR**

- A. The Contractor shall provide services including invasive plant removal and restoration of native plants and vegetation on approximately 20 acres of City owned land in the Minnesota River Valley, as indicated on the proposal (Exhibit A) for the not-to-exceed amount of THIRTY THOUSAND AND NO/100 DOLLARS (\$30,000.00). Contractor agrees that the City will pay Contractor when the City has received this executed Agreement, signed by both

parties, from the Contractor and the services have been fully performed and accepted by the City. The City will also provide in-kind services up to TEN THOUSAND AND NO/100 DOLLARS (\$10,000).

- B. Contractor agrees to provide SIXTY THOUSAND AND NO/100 DOLLARS (\$60,000) to complete the project as outlined on Exhibit A.
- C. The Contractor shall defend, indemnify and hold harmless the City, its officials, employees and agents, from any and all claims, causes of action, lawsuits, damages, losses, or expenses, including attorney fees, arising out of or resulting from the Contractor's (including its officials, agents or employees) performance of the duties required under this Agreement, provided that any such claim, damages, loss or expense is attributable to bodily injury, sickness, diseases or death or to injury to or destruction of property including the loss of use resulting therefrom and is caused in whole or in part by any negligent act or omission or willful misconduct of Contractor.
- D. It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of copartners between the parties hereto or as constituting the Contractor's staff as the agents, representatives or employees of the City for any purpose in any manner whatsoever. The Contractor and its staff are to be and shall remain an independent contractor with respect to all services performed under this Agreement. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing services under this Agreement. Any and all personnel of the Contractor or other persons, while engaged in the performance of any work or services required by the Contractor under this Agreement, shall not be considered employees of the City, and any and all claims that may or might arise under the Workers' Compensation Act of the State of Minnesota on behalf of said personnel or other persons while so engaged, and any and all claims whatsoever on behalf of any such person or personnel arising out of employment or alleged employment including, without limitation, claims of discrimination against the Contractor, its officials, agents, contractors or employees shall in no way be the responsibility of the City; and the Contractor shall defend, indemnify and hold the City, its officers, agents and employees harmless from any and all such claims regardless of any

determination of any pertinent tribunal, agency, board, commission or court. Such personnel or other persons shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from the City, including, without limitation, tenure rights, medical and hospital care, sick and vacation leave, Workers' Compensation, Unemployment Compensation, disability, severance pay and PERA.

E. The parties agree to comply with the Minnesota State Human Rights Act, Minnesota Statutes, Section 363, as amended.

F. To the extent allowed by law, Contractor agrees to maintain the following insurance coverages, in an amount equal to, or greater than, the minimum limits described below. Contractor will provide the City with a certificate of insurance evidencing such coverages prior to performing any duties included under the terms and conditions of this Agreement. Contractor also agrees to keep a valid certificate of insurance on file, referencing these limits, throughout the entire term of this agreement.

1. Commercial General Liability Insurance in the amount of at least \$1,500,000 per occurrence for bodily injury or death arising out of each occurrence, as well as \$1,500,000 per occurrence for property damage.

To meet the above requirements, the Consultant may use a combination of Commercial General Liability and Umbrella coverage, as long as the City approves such use and it is evidenced on the Certificate of Insurance naming the City as an additional insured on both policies. The Umbrella needs to be a following form coverage and provide a thirty (30) day notice of cancellation.

2. Business Automobile Insurance in the amount of \$1,500,000 per occurrence for bodily injuries or death arising out of each occurrence, as well as \$1,500,000 per occurrence for property damage.
3. Workers' Compensation Insurance as required by Minnesota Statutes, Section 176.181, subd. 2.

4. Professional Liability Insurance in the amount of \$1,000,000 per occurrence.
  5. The Contractor agrees to name the City as an additional insured on its Commercial General Liability and Business Automobile Insurance policies, and to provide an endorsement of such status. In addition, the Contractor agrees to notify the City thirty (30) days prior to cancellation or a change in any of the aforementioned insurance policies. All insurance must be provided at the Contractor's expense and at no additional cost to the City.
- G. The Contractor agrees that the City will own and have the right to use, reproduce and apply as it desires, any data, reports, analyses and materials which are collected or developed by the Contractor or anyone acting on behalf of the Contractor as a result of this Agreement.

### **III. DUTIES OF THE CITY**

- A. After both parties have signed this Agreement, and after the completion and acceptance of Contractor's duties under this Agreement, the City shall pay the Contractor the not-to-exceed sum of THIRTY THOUSAND AND NO/100 DOLLARS (\$30,000.00).
- B. In-kind services valued at approximately TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00) will also be provided by the City. This work will include brush removal and other services as mutually agreed upon between the City and the Contractor.
- C. Payments to Contractor will be made within thirty (30) days of receipt of invoice from Contractor.

### **IV. GENERAL PROVISIONS**

- A. Entire Agreement. This Agreement represents the entire Agreement between the Contractor and the City and supersedes and cancels any and all prior agreements or proposals, written or oral, between the parties relating to the subject matter hereof; and amendments, addenda, alterations, or modifications to the terms and conditions of this Agreement shall be in writing and signed by both parties.

- B. Americans With Disability Act. The Contractor agrees to comply with the Americans With Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973 and not discriminate on the basis of disability in the admission or access to, or treatment of employment in its services, programs, or activities. The Contractor agrees to hold harmless and indemnify the City from costs, including but not limited to damages, attorney's fees and staff time, in any action or proceeding brought alleging a violation of ADA and/or Section 504 caused by the Contractor. Upon request accommodation will be provided to allow individuals with disabilities to participate in all services, programs and activities. The City has designated coordinators to facilitate compliance with the Americans with Disabilities Act of 1990, as required by Section 35.107 of the U.S. Department of Justice regulations, and to coordinate compliance with Section 504 of the Rehabilitation Act of 1973, as mandated by Section 8.53 of the U.S. Department of Housing and Urban Development regulations.
- C. Minnesota Government Data Practices Act. The Contractor will comply with all applicable provisions of the Minnesota Government Data Practices Act, Chapter 13 of the Minnesota Statutes, as amended.
- D. Applicable Laws. This Agreement shall be interpreted using the laws of the State of Minnesota. The Contractor agrees to comply with all applicable local, state and federal laws, rules, regulations and ordinances in the performance of the duties of this Agreement.
- E. Assignment. This Agreement shall not be assignable except with the written consent of the City.
- F. Examination of Documents. The books, records, documents, and accounting procedures of the Contractor, relevant to this Agreement, are subject to examination by the City, and either the legislative or state auditor as appropriate, pursuant to Minnesota Statutes, Section 16C.05, Subdivision 5.
- G. Mediation. Both parties agree to submit all claims, disputes and other matters in question between the parties arising out of or relating to this Agreement to mediation. The mediation shall be conducted through the Conflict Resolution Center, 2101 Hennepin Avenue, Suite 100, Minneapolis, MN 55405. The parties hereto shall decide whether mediation shall be

binding or non-binding. If the parties cannot reach agreement, mediation shall be non-binding. In the event mediation is unsuccessful, either party may exercise its legal or equitable remedies and may commence such action prior to the expiration of the applicable statute of limitations.

- H. Payment of Subcontractors. The Contractor agrees that it must pay any subcontractor within ten (10) days of the prime contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The Contractor agrees that it must pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the prime contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a prime contractor must be awarded its costs and disbursements, including attorneys fees, incurred in bringing the action.
- I. Adherence to City Policies. The Contractor agrees, as a condition of being awarded this Agreement, to require each of its agents, officers and employees to abide by the City of Bloomington's policies prohibiting sexual harassment, firearms and smoking, as well as all other reasonable work rules, safety rules or policies regulating the conduct of persons on City property at all times while performing duties pursuant to this Agreement. The Contractor agrees and understands that a violation of any of these policies or rules constitutes a breach of the Contract and sufficient grounds for immediate termination of the Agreement by the City.
- J. Severability. If any provision or term of this Agreement for any reason is declared invalid, illegal or unenforceable such decision shall not affect the validity of any remaining terms or conditions in this Agreement,
- K. Signatory. Each person executing this Agreement on behalf of a party hereto represents and warrants that such person is duly and validly authorized to do so on behalf of such party, with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations hereunder. This Agreement may be executed in counterparts, each of which

shall be deemed an original, but all of which taken together shall constitute but one and the same instrument. In the event the Contractor did not authorize the Signatory to sign on its behalf, the Signatory agrees to assume responsibility for the duties and liability of the Contractor, as set forth herein, personally.

## V. TERMINATION

Either party may terminate this Agreement for any reason upon giving thirty (30) days' advanced written notice to the other party.

The City reserves the right to cancel this Agreement at any time in event of default or violation by the Contractor of any provision of this Agreement. The City may take whatever action at law or in equity that may appear necessary or desirable to collect damages arising from a default or violation or to enforce performance of this Agreement.

[REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF BLOOMINGTON

BY: \_\_\_\_\_  
Its Mayor

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Its City Manager

Reviewed and approved by the City Attorney.

\_\_\_\_\_  
City Attorney

Great River Greening

DATED: 011916

BY: Delann Famsur  
Its: Executive Director

## Exhibit A

**To:** City of Bloomington, Mark Morrison  
USFWS MVNWR Vicki Sherry

**From:** Steve Thomforde

**Subject:** Draft Proposal for work in the Bloomington Minnesota River Corridor

**Project:** Pond Dakota Mission – Hopkins Landing Savanna Restoration Project HBI619

**Acres:** 20

### **Executive Summary:**

Phase-1 Pond Dakota Mission (PDM) – Hopkins Landing (HL) Savanna Restoration Project occurs along the trail system between PDM and HL. The Phase-1 project seeks to reduce standing canopy and dead down woody material in order to increase sunlight to the ground layer and decrease ecosystem nitrogen loads that fuel invasion. Increased light to the ground layer and reductions in soil nitrogen will allow us to stabilize bare soils with native ground layer vegetation. Native seed will be spread in areas void of native vegetation. Most work will occur on terrain where machinery can assist in the woody harvest and long term management. Demonstration plots will occur on steep slopes where work is limited to hand tools. These demonstration plots are designed to provide feedback on techniques and costs associated with this type of restoration in order to better inform us for future funding cycles. This work will include at least one public volunteer event and one private event.

### **Vision:**

The south-west aspects of the Bloomington Minnesota River Corridor feature open oak woodland (FDs37) with intact native groundlayer vegetation and the north-east facing aspects feature oak-basswood (MHs38) woodlands with intact native groundlayer vegetation.

### **Goals:**

1. Increase light intensity at the ground layer through reductions of low quality woody species
2. Reduce ecosystem nitrogen loads through reductions of low quality dead down wood
3. Increase groundlayer cover and diversity
4. Restore fire
5. Develop demonstration plots on steep terrain
6. Reduce the standing crop of exotic buckthorn (*Rhamnus cathartica*) honeysuckle (*Lonicera spp.*), and garlic mustard (*Alliaria petiolata*)
7. Increase pollinator habitat
8. Increase wildlife habitat

### **Objectives and Tasks:**

1. Increase light intensity at the groundlayer through reductions of low quality woody species
  - a. Low quality tree species include: red elm (*Ulmus rubra*), green ash (*Fraxinus pennsylvanica*), red oak (*Quercus rubra*) and hackberry (*Celtis occidentalis*)
  - b. Harvest intensity formula of the aforementioned species includes:
    - i. Harvest 70% DBH of  $\leq 9$ " inches.
    - ii. Harvest 25% DBH of  $\leq 12$ ".

- iii. Harvest 5% DBH of  $\leq 16''$ .
- c. Low quality trees are harvested in pools of intensive harvest (100%) and pools of no harvest
- d. High intensity harvest pools seek to release quality trees including: bur oak (*Quercus macrocarpa*), white oak (*Quercus alba*), basswood (*Tilia americana*), and sugar maple (*Acer saccharum*)
- e. Trees to harvest will be marked on the south side
- 2. Reduce ecosystem nitrogen loads through reduction of dead down and standing woody debris
  - a. 80% of labile dead down wood species with stems longer than  $\geq 20'$  feet long and  $\geq 6''$  inches diameter are removed from the project site
  - b. 50% of recalcitrant (e.g. white oak tribe, sugar maple, basswood) will be left in place for habitat
  - c. 50% of standing dead trees (snags) are left in place, harvest formulas of dead standing trees include:
    - i) Removal of stems that pose a threat to visitors
    - ii) Removal of stems that hinder operations
    - iii) Higher removal rates of labile species
    - iv) Lower removal rates of recalcitrant species (e.g. white oak tribe, sugar maple, basswood)
- 3. Eliminate 90% of existing buckthorn, honeysuckle, and garlic mustard.
  - a. Cut and stump treat all woody stems  $\geq$  than 1.5" diameter
  - b. Mow all stems  $\leq$  than 2" diameter
  - c. Remove all cut materials to reduce N loads
  - d. Conduct follow up herbicide re-sweep
- 4. Restore fire to woodlands.
  - a. Write burn plans and secure permits
  - b. Initiate fire
- 5. Increase groundlayer vegetation cover from 10% to 90%.
  - a. Monitor vegetation in response to thinning (sun-lighting) and fire
- 6. Increase diversity of native groundlayer species.
  - a. Introduce seed
  - b. Introduce plants
- 7. Conduct 1 public volunteer event
- 8. Conduct at least 1 private volunteer event

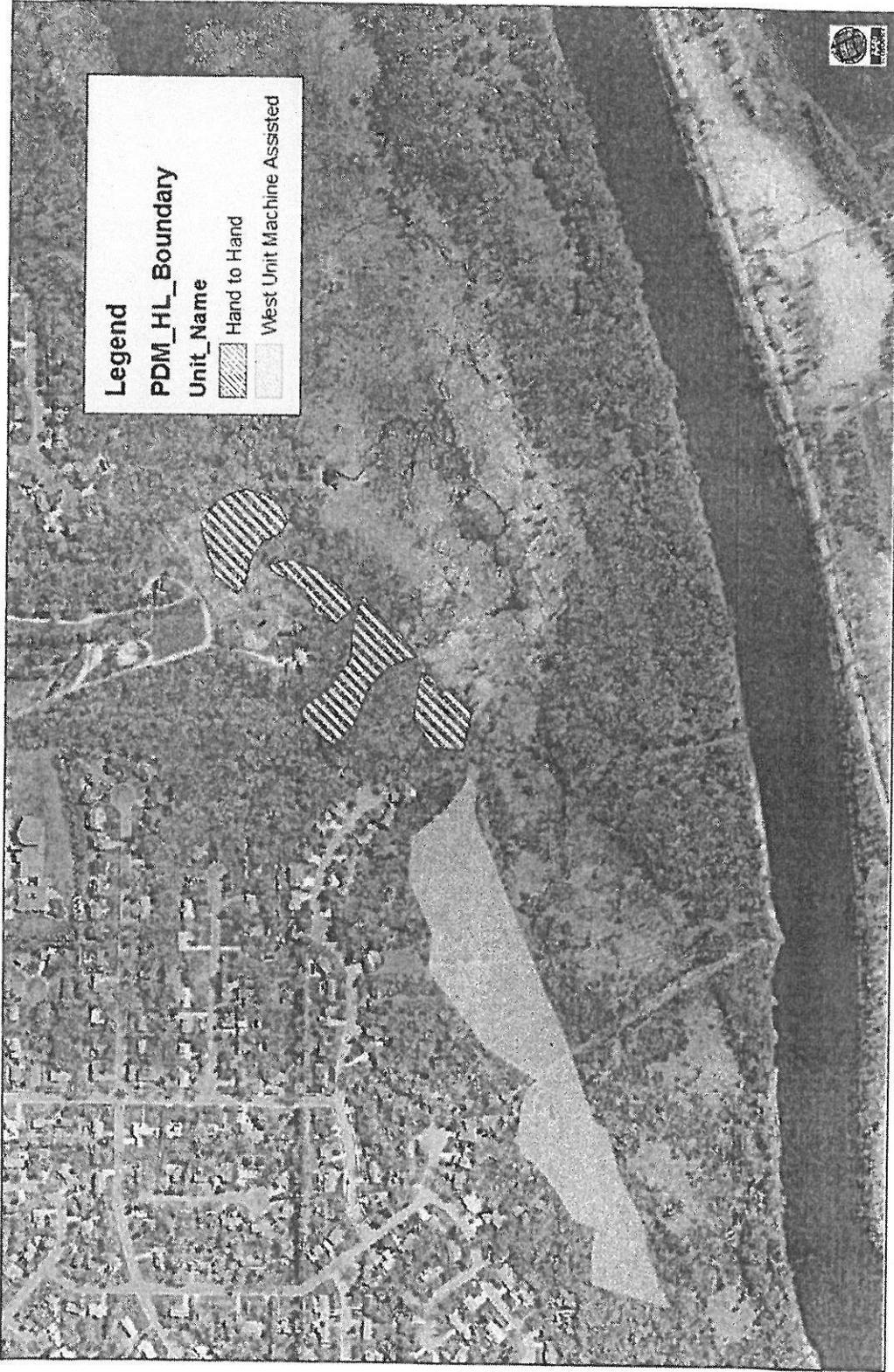
**Phase-1 Budget:**

City of Bloomington Contributes	\$30,000.00 Cash
City of Bloomington Contributes	\$10,000.00 In-kind service
Great River Greening Contributes	\$60,000.00 Cash
Total amount of funds:	<b>\$100,000.00</b>

**Draft Budget**

Process	Amount	Timeline
Administration, Work Plans, & Reporting	\$1,500.00	2016 – 2019
RFP & Subcontracts for tree removal and	\$3,500.00	Winter 2016

buckthorn garlic mustard control		
Assist with work / Bloomington Volunteer event/s	\$10,000.00 (Bloomington In-kind).	Summer 2016 - 2019
Mark harvest zone and intensities	\$3000.00	Winter 2016 – Fall 2016
Tree cutting, mowing and removal	\$56,000.00	Winter 2016 – Winter 2017
Exotic control (cut stump, mow & 2 re-sweeps)	\$11,000.00	Summer 2016 - 2017
Plant materials including: seed, plugs and shrubs, and erosion control mats.	\$5,500.00	Spring 2016 -2017
Volunteer event	\$6000.00	2016 - 2019
Rx-fire	\$5,500.00	Spring 2017 – Spring 2019
<b>Total</b>	<b>\$100,000.00</b>	



Bloomington MN River Project



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
1/20/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>DOLLIFF INSURANCE</b> 6465 Wayzata Blvd. Ste. 850  Saint Louis Park MN 55426-1749	<b>CONTACT NAME:</b> Linda Brady <b>PHONE (A/C No. Ext):</b> (952) 593-7400 <b>E-MAIL ADDRESS:</b> Lbrady@dolliff.com	<b>FAX (A/C. No):</b> (952) 593-7444
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b> <b>Great River Greening</b> 35 Water St W  St Paul MN 55107	<b>INSURER A:</b> General Casualty Company of WI	<b>NAIC #</b> 24414
	<b>INSURER B:</b>	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

**COVERAGES** **CERTIFICATE NUMBER:** 15-16 Liability **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			CCI0401719	7/1/2015	7/1/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			CBA0401719	7/1/2015	7/1/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Uninsured/Underinsured \$ 1,000,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CCU0401719	7/1/2015	7/1/2016	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	CWC0401719	7/1/2015	7/1/2016	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
 Project: Gideon Pond House, 401 E 104th St., Bloomington, MN 55420

Additional Insured with respect to General Liability as required by written Contract:  
 City of Bloomington

**CERTIFICATE HOLDER****CANCELLATION**

City of Bloomington 1800 West Old Shakopee Road Bloomington, MN 55431	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE  Todd Awes/LBRADY <i>Todd A. Awes</i>
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