

**GRANT AGREEMENT
BETWEEN THE METROPOLITAN COUNCIL AND
THE CITY OF BLOOMINGTON
FOR RECREATION OPEN SPACE ACQUISITION**

Grantee:	City of Bloomington	SG-2014-009
Address:	1800 W. Old Shakopee Road Bloomington, MN 55431-3027	
Acquisition Project:	At Hyland-Bush Anderson Lakes Park Reserve grant up to \$187,029 to finance up to 75% of the costs to acquire 0.5-acre parcel at 7907 Lea Road.	
Grant Amount:	\$187,029	Council Action: March 26, 2014 Bus Item No. 2014-61
Council Bonds:	\$74,812	
2014 Parks & Trails Legacy	\$112,217	
Grant Period:	Start: March 27, 2014 End: March 27, 2015	Effective Date: Final execution by both parties.
Grant Manager:	Tori Dupre Metropolitan Council 390 North Robert Street St. Paul, MN 55101 (651) 602-1621 <u>tori.dupre@metc.state.mn.us</u>	

AGREEMENT

THIS AGREEMENT is made and entered into on the Effective Date by and between the Metropolitan Council (“the Council”) and The City of Bloomington (“the Grantee”).

WHEREAS:

1. The Minnesota Legislature in 2013 appropriated funds for State Fiscal Year 2014 from the Constitutional and Land Legacy Amendment’s Parks and Trails Fund to the Council for grants to implementing agencies as required under the new Minn. Stat. § 85.53 for parks and trails resources (“Parks and Trails Fund Appropriation”).
2. The Council is authorized by Minnesota Statutes section 473.301 *et seq.* to make grants to eligible governmental units situated wholly or partly within the metropolitan area for the purpose of acquisition of regional recreation open space in accord with the Council’s Recreation Open Space Policy Plan.
3. The Council has expressed its commitment to issue Council bonds for acquisition and betterment of regional recreation open space lands (“Council park bonds”).
4. The Grantee is authorized by Minn. Stat. § 85.53, subd.3 to receive grants from the Parks and Trails Fund Appropriation to support parks and trails of regional significance.

5. On March 26, 2014, the Council authorized the granting of a portion of the Parks and Trails Fund Appropriation and Council park bonds and to the Grantee for the completion of the Grant Project.

6. The Grantee represents that it is duly qualified and agrees to perform all services described in this grant contract to the satisfaction of the Council.

NOW, THEREFORE, the Council and the Grantee agree as follows:

I. DEFINITIONS.

1.01 "Approved Master Plan" means the master plan for the Park required and approved by the Council.

1.02 "Park" means the regional park, park reserve, trail corridor, or special recreation feature in which the Acquisition Project is to be performed.

1.03 "Policy Plan" means the regional recreation open space system policy plan, including the capital improvement program for recreation open space, required by Minnesota Statutes section 473.147.

1.04 "Project" means the entire work effort necessary to acquire the Property, including all obligations of the Grantee under this agreement.

1.05 "Property" means the parcel or parcels of real property set forth on **Exhibit A**, which are eligible for the acquisition with grant funds, and includes any buildings or structures thereon.

II. GRANT AMOUNT, MATCH, GRANT PERIOD, AND REIMBURSEMENT PROCEDURES.

2.01 **Estimated Project Amount.** The total estimated cost of the Project is \$249,372 consisting of the Maximum Grant Amount and the Grantee's required match as set forth below.

2.02 **Maximum Grant Amount.** The Council agrees to make available to the Grantee during the grant period a grant of up to **\$187,029** ("Maximum Grant Amount") of which **\$74,812** are Council Park Bond proceeds and **\$112,217** are proceeds from the 2014 Parks & Trails Legacy Fund appropriation. Those amounts are granted for the purpose of reimbursing the Grantee for a portion of the eligible costs of performing the Project and acquiring the Property, or as much as it is possible to acquire with available funds, as defined in this agreement. All Property acquired in whole or in part with grant funds shall be acquired, developed, and maintained in accordance with the provisions of the Approved Master Plan and the Policy Plan.

In no event will the Council's obligation under this agreement exceed the lesser of the following:

- A. The Maximum Grant Amount; or

B. 75% of the total Project expenditures.

The Council shall bear no responsibility for cost overruns that may be incurred by the Grantee in performance of the Project.

2.03 Grantee Match. The Grantee shall provide a twenty percent (25%) local match against the Maximum Grant Amount, *i.e.*, not less than **\$62,343**. If the final expenses for the Project are less than the Estimated Project Amount, then the local match shall be reduced to twenty percent (25%) of the final Project amount. If the final expenses for the Project exceed the Estimated Project Amount, the Grantee is responsible for providing the funds to cover the final costs and expenses.

2.04 Tax Equivalency Payments. Tax equivalency payments required by Minnesota Statutes section 473.341 are considered a part of the total grant amount and must be paid by the Grantee out of grant funds. Upon acquisition of property with funds granted under this agreement, the Grantee shall determine the appropriate tax recipient authority and report to the Council the total amount of taxes levied for municipal or township purposes in the year the parcels or interests therein were acquired. Upon approval by the Council of the reported total tax amount, the Grantee shall make the tax equivalency payment of 180% of the total tax amount to the appropriate tax recipient authority. For any parcel acquired, the Grantee must make the required tax equivalency payment before applying grant funds for reimbursement of Grantee costs of acquisition of the parcel. Cost overruns for other costs of acquisition are the responsibility of the Grantee.

2.05 Compliance With Bond Proceed Laws. The Grantee agrees to comply with the provisions of all applicable state and federal laws, rules, and regulations pertaining to the use of bond proceeds. This grant is financed with bonds issued in accordance with federal arbitrage restrictions. The Grantee will not use the grant funds in any way which would cause the bonds to be classified as "Arbitrage Bonds" under the Internal Revenue Code. The Grantee will not take any action that would adversely affect the exemption from federal income taxation of the bonds or omit to take any action necessary to maintain such tax exempt status.

2.06 Grant Period. The grant period shall commence on March 27, 2014 and remain in full force and effect until March 27, 2015 or until all Grantee obligations set forth in this agreement have been satisfactorily fulfilled and the Grantee's final report is received and accepted by the Council, whichever occurs first. After that date, all grant funds that have not been expended shall revert to the Council.

2.07 Requests for Reimbursement. To obtain reimbursement under this agreement, the Grantee shall provide the Council with evidence that the portion of the Project for which payment is requested has been satisfactorily completed. The Council will make the final determination whether the expenditures are eligible for reimbursement under this agreement and verify the total amount requested from the Council. Reimbursement of any cost is not to be construed as waiver by the Council of any Grantee noncompliance with this agreement.

All documentation of expenditures to be reimbursed out of Council park bonds shall be submitted in a form acceptable to the Council. The Council shall reimburse all grant eligible

expenditures **not in excess of the total** amount of Council bond and State fund proceeds granted under this agreement within thirty (30) days of the receipt of satisfactory documentation from the Grantee. The documentation shall be subject to review and acceptance or rejection by the Council's Regional Administrator. Documentation shall be deemed to be accepted if it is not rejected in writing within ten (10) working days of receipt.

A final reimbursement request for this Project must be received by the Council's contact person by April 15, 2015. *No facsimile transmissions of reimbursement requests will be accepted.* Requests received after this date may not be eligible for reimbursement. No reimbursements will be awarded under this agreement for work done after **March 27, 2015**.

2.08 Council Fund Requirement. Notwithstanding anything to the contrary in this agreement, the payment of grant proceeds shall be made by the Council within the time frames specified in this article only if the Council has adequate parks and open space grant funds on hand at the time that payment is due.

III. PERFORMANCE OF THE PROJECT

3.01 Use of Funds. The Grantee shall use the proceeds of this grant only for the eligible costs of the Project as described in this Agreement.

3.02 Eligible Costs. The costs of acquiring the Property or interests therein during the grant period, through purchase, condemnation, or otherwise, are eligible for reimbursement out of grant proceeds. Such costs may include the purchase price, condemnation award, special assessments to the extent such special assessments are eligible under the Policy Plan, tax equivalency payments as provided in Minnesota Statutes section 473.341 and paragraph 2.02 of this agreement, and costs and disbursements incurred in necessary legal proceedings. Professional fees incurred for services necessary and incident to the acquisition of the Property are also eligible for reimbursement out of grant proceeds. Professional services for which payment is eligible shall be limited to the following: appraisal fees, survey fees, and attorneys' fees. Such services may be performed by outside firms or individuals or by qualified, regular members of the Grantee's staff.

Costs of land stewardship for the Property following acquisition are eligible for reimbursement out of grant proceeds, but land stewardship activities are limited to doing the following: fencing or other marking of boundaries; stabilizing or rehabilitating natural resources so as to aid in the re-establishment of threatened natural resources or prevent non-natural deterioration thereof; preventing the deterioration of existing structures; removing structures not useful to a park function, dangerous land forms, or attractive nuisances; and closing existing roads.

3.03 Administration and Supervision. The Grantee shall be responsible for the administration, supervision, management, and oversight of the Project that may be required for the work performed under this agreement. The Grantee may employ such professional services as it deems reasonable and necessary to provide these services, subject to the provisions of paragraph 3.03.

3.04 Acquisition Policy. In acquiring the Property with the grant funds made available by this agreement, the Grantee agrees to maximize as best it can the acquisition of land and interests in land. Where feasible, the Grantee may acquire options, easements, reservations, or other interests less than a fee interest where such interests will accomplish necessary land preservation and holding and also provide the largest, long-term public recreation and open space benefit possible with available funding. The Grantee agrees to:

- A. Acquire land and interests therein in accord with adopted policy and strategy of the Grantee reviewed with the Council's staff prior to acquisition, and to acquire the Property, or as much thereof as possible, within the grant period;
- B. Make reasonable efforts to acquire parcels and interests therein by negotiated purchase from willing sellers before instituting condemnation proceedings; and
- C. Negotiate for and acquire parcels of the Property or interests therein at their fair market value determined in accord with applicable law, regulations, and the Grantee's established procedures governing land acquisition.

3.05 Agreement and Restrictive Covenant. The Grantee and the Council agree that each will execute, and the Grantee agrees that it will cause to be recorded at its own expense contemporaneous with the acquisition of the Property, the Council's form Agreement and Restrictive Covenant (included for signature with this grant agreement) for each parcel of the Property acquired and for each parcel of the Property in which an interest is acquired in whole or in part from grant proceeds. It is the purpose of such agreement and restrictive covenant to limit the right of the Grantee to convey or encumber land or interests in land acquired from grant proceeds without the consent of the Council and to ensure that the lands and interests in the lands be devoted exclusively to the purposes for which they were acquired, *i.e.*, regional recreation open space for public use. It is also the purpose of this agreement and restrictive covenant to lower the cost of regional services by allowing the Council, with the Grantee's input, to place regional sewer interceptor facilities on the Property if the need ever arises. **The Grantee agrees to provide the Council with a copy of the recorded restrictive covenant and the deed for the Property within 90 days from the date of acquisition.** If this Agreement reimburses the Grantee for land acquired with its own funds, the Grantee agrees to provide the Council with a copy of the recorded restrictive covenant and the deed for the Property as a condition to receive the reimbursement payment from this grant.

3.06 Regional Use. The Grantee agrees to develop, operate, and maintain the Park in a manner consistent with the Regional Park Policy Plan and the unit's Approved Master Plan, including allowing use of the Park by all persons in the region. The Grantee further agrees that it will not adopt any rules or restrictions hindering or affecting regional use of the Park including, but not limited to, charging higher fees for non-residents without the express written consent of the Council, either during the grant period or for a period of twenty (20) years following.

IV. ACCOUNTING, RECORD, AND AUDIT REQUIREMENTS.

4.01 Accounting and Record-keeping. The Grantee agrees to establish and maintain a separate account for the Project and to maintain accurate and complete books, records,

documents, and other evidence pertaining to the costs and expenses of implementing this agreement to the extent and in such detail that will accurately reflect the total cost of the Project and all net costs, direct and indirect, of labor, materials, equipment, supplies, services, and other costs and expenses. The Grantee shall use generally accepted accounting principles. All records shall be retained for at least thirty (30) years after the issuance of the final certificate of acceptance by the Council, or such shorter period as may be specified in writing by the Council at the expiration of the grant period.

4.02 Audit. The accounts and records of the Grantee related to this agreement shall be audited in the same manner as other accounts and records of the Grantee and may be audited and/or inspected on the Grantee's premises or otherwise by individuals designated or authorized by the Council at any time following reasonable notification during the grant period and for a period of thirty (30) years thereafter, or such shorter period as may be specified pursuant to paragraph 4.01 of this article. Under Minnesota Statutes section 16C.05, subdivision 5, the Grantee's books, records, documents, and accounting procedures and practices relevant to this agreement are subject to examination by the State, its representatives, the State Auditor, and the Legislative Auditor for a minimum of six (6) years from the end of this agreement. The Grantee shall make available at all reasonable times and before and during the period of records retention proper facilities for examination and audit.

V. REPORTS.

5.01 Reimbursement Request/Progress Reports. To obtain Reimbursement under this agreement, the Grantee shall submit a Reimbursement Request/Progress Report on forms provided by the Council. Reimbursement Request/Progress Reports may be submitted once per month, but must be submitted at least semi-annually by December 1 and June 1 of each calendar year of the grant period. The Grantee shall describe the financial, construction, and consulting activities undertaken in connection with the grant and shall provide sufficient documentation of grant eligible expenditures and such other information as the Council's staff reasonably requests.

5.02 Final Report. Within two (2) months following the expiration of the grant period, the Grantee shall submit a final report in a format determined by the Council, detailing total Acquisition Project receipts and expenditures, summarizing all Acquisition Project activity, and containing a certification by the Grantee's chief financial officer that all grant funds were expended in accordance with this agreement.

VI. GENERAL CONDITIONS.

6.01 Compliance with Law. The Grantee agrees to comply with restrictions regarding the use of grant proceeds contained in Minnesota Statutes section 473.301 *et seq.*, and with the provisions of all applicable state and federal laws, including those laws pertaining to the use of bond proceeds. This grant is financed with bonds issued in accordance with Federal arbitrage restrictions. The Grantee will not use the grant funds in any way which would cause the bonds to be classified as "Arbitrage Bonds" under Section 148 of the Internal Revenue Code. The Grantee will not take any action that would adversely affect the exemption from federal income taxation of the bonds or omit to take any action necessary to maintain such tax exempt status. Further, the Grantee agrees that it is the Grantee's obligation and responsibility, and not the

Council's, to comply with all other laws, regulations, and rules relating to activities undertaken in performing the Acquisition Project.

6.02 Maximum Use of Other Funds. If the Grantee at any time receives funding or reimbursement from another source for amounts charged by the Grantee against this grant, such funds charged against this grant shall be immediately refunded to the Council upon discovery of the duplicate funding or reimbursement.

6.03 Liability. Each party agrees that it will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other party and the results thereof. The Council's liability shall be governed by the Minnesota Municipal Tort Claims Act, Minnesota Statutes chapter 466, and other applicable law. Notwithstanding this provision, to the fullest extent permitted by law, the Grantee shall defend, hold harmless, and indemnify the Council and its members, employees, and agents from and against all claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from clean-up, removal, and disposal of contaminants from the Project property. Claims included in this indemnification include, without limitation, 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, 42 U.S.C. sections 9601 *et seq.*, and the federal Resource Conservation and Recovery Act of 1976 (RCRA) as amended, 42 U.S.C. sections 6901 *et seq.* This obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which otherwise would exist between the Council and the Grantee. The provisions of this paragraph shall survive the termination of this agreement. The Grantee's obligation to indemnify the Council as stated in this paragraph shall not be construed as a waiver on the part of either the Grantee or the Council of any immunities or limits on liability provided by Minnesota Statutes chapter 466, or other applicable state or federal law.

6.04 Revenue. All revenue generated from or by the Park shall be used by the Grantee only as provided in the Policy Plan. Revenue from recreational uses may be used by the Grantee for any park-related purposes. Revenue from non-recreational uses of the Park or on land acquired with regional grant funds must be used for land stewardship or for the capital costs of providing regional recreation opportunities. The Grantee shall make an annual written report to the Council detailing all revenue generated from non-recreational use of the Park during the preceding calendar year, if such revenue exceeds the threshold amount set by the Council (\$2,500 per year). The Grantee shall return to the Council all non-recreation revenue that is not expended by December 31 of the year following the year in which it was generated.

6.05 Changes in the Project. If the Grantee, for any reason, determines that the Project or any portion of it should not be undertaken, or that there should be a change in the scope or costs of the Project or any portion of it, the Grantee shall submit to the Council's Regional Administrator a statement describing the situation and giving the reasons for the Grantee's determination. The Grantee may, simultaneously with the submission of the statement or within a reasonable time thereafter, recommend alternative projects, activities, uses, expenditures, or allocations of grant funds.

If the Regional Administrator determines that the Grantee's recommendations may be immediately approved according to criteria established by the Council, the Grantee and the Council shall execute a written amendment to this agreement as provided in paragraph 6.06 of this article; however, no further action by the Metropolitan Parks and Open Space Commission or the Council is required to authorize the execution of the amendment by the Council.

If the Regional Administrator determines that the Grantee's recommendations may not be immediately approved according to criteria established by the Council, the Grantee and the Council may execute a written amendment to this agreement only as provided in paragraph 6.07 of this article, following appropriate authorization by the Council and the Grantee.

The Regional Administrator shall inform the Grantee within ten (10) working days following receipt of the Grantee's recommendations whether the recommendations are immediately approved. In determining whether to approve the Grantee's recommendations, the Council shall give full regard to legislative determinations concerning acquisition funding and to the general position that the total grant award herein should ultimately be made available to the Grantee for acquisition.

6.06 Amendments. The terms of this agreement may be changed by mutual agreement of the parties. Changes shall be effective only upon execution of written amendment(s) signed by authorized representatives of the Council and the Grantee.

6.07 Equal Opportunity; Affirmative Action. The Grantee agrees to comply with all applicable laws, rules, and regulations relating to nondiscrimination and affirmative action in public purchase, involvement, and use. In particular, the Grantee agrees not to discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, sexual orientation, national origin, marital status, disability, status with regard to public assistance, membership or activity in a local civil rights commission, or age, and to take affirmative action to insure that applicants and employees are treated equally with respect to all aspects of employment, rates of pay and other forms of compensation, and selection for training. In addition, the Grantee agrees to include affirmative action and equal employment provisions in any written contract entered into after the date of execution of this agreement which involves the provision of work or services which will be paid for in whole or in part out of the grant proceeds.

6.08 Permits, Bonds, and Approvals. The Grantee is responsible for obtaining all applicable local and state licenses, permits, bonds, and authorizations necessary for performing the Acquisition Project.

6.09 Termination. This agreement may be terminated by the Council for cause at any time upon seven (7) days' written notice to the Grantee. Cause shall mean a material breach of this agreement and any supplemental agreements or amendments to this agreement. This agreement may also be terminated by the Council in the event of a default by the Grantee or in the event the Legislature rescinds the Appropriation. This agreement may be terminated by the Council or the Grantee at any time with or without cause upon thirty (30) days' written notice to

the other party. In the event of such a cancellation, the Grantee shall be entitled to payment determined on a pro rata basis for work or services satisfactorily performed.

6.10 Construction. This agreement is intended to assist in implementing the Policy Plan and shall be interpreted consistently with it.

6.11 Jurisdiction and Venue. Venue for all legal proceedings arising out of this grant agreement, or breach of this grant agreement, shall be in the state or federal court with competent jurisdiction in Ramsey County, Minnesota.

VII. MISCELLANEOUS

7.01 Government Data Practices. The Grantee and Council must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the Council under this grant contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Grantee under this grant contract. 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 Council. If the Grantee receives a request to release the data referred to in this Clause, the Grantee must immediately notify the Council.

7.02 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 Council 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 Council's obligation or responsibility.

7.03 Data Availability. Grantee agrees to comply with Minn. Stat. § 85.53, subd. 4, requirements for data collected by projects funded with money from the parks and trails fund that have value for planning and management of natural resources, emergency preparedness, and infrastructure investments.

7.04 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 Council, to federal and state tax agencies and Council personnel involved in the payment of Council 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.

7.05 Report to Legislature. As provided in Minn. Stat. § 3.195, the Metropolitan Council must submit a report on the expenditure and use of money appropriated under the parks and trails fund to the legislature by March 1 of each year. The report must detail the outcomes in terms of additional use of parks and trails resources, user satisfaction surveys, and other appropriate outcomes. The grantee agrees to provide to the Council by February 15 of each year a report on any user satisfaction surveys it has related to this project, and other appropriate measurable outcomes of the Grant Project as prescribed in section 7.08.

7.06 Supplement. The funds granted under this agreement are to supplement and shall not substitute for traditional sources of funding.

7.07 Minnesota Conservation Corps. The Grantee shall give consideration to contracting with the Minnesota Conservation Corps for contract restoration, maintenance, and other activities.

7.08 Measureable Outcomes. Grantee agrees to comply with the following: A project or program receiving funding from the parks and trails fund must meet or exceed the constitutional requirement to support parks and trails of regional or statewide significance. A project or program receiving funding from the parks and trails fund must include measurable outcomes, as defined in section 3.303, subdivision 10, and a plan for measuring and evaluating the results. A project or program must be consistent with current science and incorporate state-of-the-art technology, except when the project or program is a portrayal or restoration of historical significance. All information for funded projects, including the proposed measurable outcomes, must be made available for publication on the Web site required under section 3.303, subdivision 10, as soon as practicable and forwarded to the Met Council and the Legislative Coordinating Commission under the provisions of Minn. Stat. § 3.303, subd. 10. The Grantee must compile and submit all information for funded projects or programs, including the proposed measurable outcomes and all other items required under section 3.303, subdivision 10, to the Council and the Legislative Coordinating Commission as soon as practicable or by January 15 of the applicable fiscal year, whichever comes first.

7.09 Minn. Stat. § 16B.98. Grants funded by the parks and trails fund must be implemented according to section 16B.98 and must account for all expenditures. Proposals must specify a process for any regranting envisioned in which the amount available to the Grantee under the formula in Minn. Stat. § 85.53, subd 3 is maintained.

7.10 Logo. The Grantee must display a sign on lands and capital improvements purchased, restored, or protected with money from the parks and trails fund that includes the logo developed by the Minnesota Board of the Arts to identify it as a project funded with money from the vote of the people of Minnesota on November 4, 2008. The Grantee shall also display, where practicable, a sign with the logo on construction projects and at access points to any land or water resources acquired in fee or an interest in less than fee title, or that were restored, protected, or enhanced, and incorporate the logo, where practicable, into printed and other materials funded with money from the parks and trails fund.

7.11 Website. Pursuant to Minnesota Laws 2011, First Special Session, chap. 6, article 5, section 2 (f), the Grantee shall, when practicable, prominently display on the Grantee's Website home page the legacy logo required under Laws 2009, chapter 172, article 5, section 10, as amended by Laws 2010, chapter 361, article 3, section 5, accompanied by the phrase "Click here for more information." When a person clicks on the legacy logo image, the Web site must direct the person to a Web page that includes both the contact information that a person may use to obtain additional information, as well as a link

to the Legislative Coordinating Commission Website required under section 3.303, subdivision 10.

7.12 Constitutionally Dedicated Funding Accountability. Pursuant to Minnesota Laws 2011, First Special Session, chap. 6, article 5, section 1, the Grantee shall submit the following information to the Council by January 15:

- (i) the name of the project and a project description;
- (ii) the name, telephone number, members of the board or equivalent governing body, and e-mail address of the funding recipient and, when applicable, the Website address where the public can directly access detailed information on the recipient's receipt and use of money for the project;
- (iii) the amount and source of funding, including the fiscal year of the appropriation;
- (iv) the amount and source of any additional funding or leverage;
- (v) the duration of the project;
- (vi) the number of full-time equivalents funded under the project. For the purposes of this item, "full-time equivalent" means a position directly attributed to the receipt of money from one or more of the funds covered under this section, calculated as the total number of hours planned for the position divided by 2,088;
- (vii) the direct expenses and administration costs of the project;
- (viii) proposed measurable outcomes and the plan for measuring and evaluating the results;
- (ix) actual measured outcomes and evaluation of projects as required under sections 85.53, subdivision 2; 114D.50, subdivision 4; and 129D.17, subdivision 2;
- (x) education about the areas and issues the projects address, including, when feasible, maps of where projects have been undertaken;

All information for proposed and funded projects, including the proposed measurable outcomes, must be made available on the Web site as soon as practicable. Information on the measured outcomes and evaluation must be posted as soon as it becomes available. The costs of these activities shall be paid out of the arts and cultural heritage fund, outdoor heritage fund, clean water fund, parks and trails fund, and the environment and natural resources trust fund proportionately. For purposes of this section, "measurable outcomes" means outcomes, indicators, or other performance measures that may be quantified or otherwise measured in order to measure the effectiveness of a project or program in meeting its intended goal or purpose.

7.13 Future Funding. Future eligibility for money from the parks and trails fund is contingent upon the Grantee satisfying all applicable requirements in this section, as well as any additional requirements contained in applicable session law.

7.14 General Provisions.

- (i) **Grants.** The Grantee shall implement this grant according to Minnesota Statutes, section 16B.98, and shall account for all expenditures of funds.
- (ii) **Constitution.** The Grantee must comply with the Minnesota Constitution, article XI, section 15, and may not substitute money received from a legacy fund for a traditional source of funding.
- (iii) **Trusts and similar instruments.** The Grantee must not use the money to fund a trust, endowment, or similar instrument unless: (1) the entity reports no later than February 1 each year to the commissioner of management and budget and the legislative committees with jurisdiction over legacy funds regarding the recipient's use and fiduciary stewardship of legacy funds during the period; and (2) the entity submits to regular audits of the trust, endowment, or similar instrument by the Office of the Legislative Auditor.
- (iv) **Lawsuit.** This Grant shall be canceled to the extent that a court determines that the appropriation unconstitutionally substitutes for a traditional source of funding.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized representatives on or as of the date first above written.

METROPOLITAN COUNCIL

By: 
Community Development Director

Date: 4-4-14

CITY OF BLOOMINGTON

Approved as to form:

By: _____
Bloomington City Attorney

CITY OF BLOOMINGTON

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

By: _____
Mayor

Date: _____

By: _____
City of Bloomington Manager

Date: _____

AGREEMENT AND RESTRICTIVE COVENANT

THIS AGREEMENT AND RESTRICTIVE COVENANT is made and entered into this _____ day _____, 2014, by and between City of Bloomington (the "Grantee") and the Metropolitan Council, a political subdivision of the State of Minnesota (the "Council").

RECITALS

1. The Grantee has acquired the following described real property, to-wit:
See attached **Exhibit A**, hereinafter referred to as the "Property."
2. The Metropolitan Council has contributed funds toward the acquisition of the Property pursuant to its grant program authorized by chapter 563, Laws of Minnesota, 1974.
3. The grant program was established pursuant to the law to provide for the acquisition, preservation, protection, development, and betterment of regional recreational open space for public use.
4. The grant agreement under which the Council contributed funds towards the acquisition of the Property is identified as **SG-2014-009**.

NOW, THEREFORE, in consideration of the grant made by the Council to the Grantee and in consideration of the mutual agreements and covenants contained in this Agreement, the parties agree as follows:

1. No sale, lease, mortgage, or other conveyance, nor the creation of any easement, restriction, or other encumbrance against the Property shall be valid for any purpose unless the written approval of the Council or its successors is duly filed and recorded at the time of the filing and recording of the instrument to which such approval pertains, nor shall the Property be used for any purpose except regional recreational open space purposes as those purposes are from time to time defined by the Council or its successors, unless the Council or its successors shall consent to the other use or uses by written

instrument duly filed and recorded and designating the nature, extent, and duration of the use for which such consent is given.

- 2. As a condition to this Grant, and provided that conveyance of such easement or easements is consistent with the Approved Master Plan, the Grantee agrees to convey to the Council, its successors or assigns, a permanent easement or easements, hereinafter referred to as "Wastewater Facilities Easement[s]" for future regional wastewater conveyance corridors on the Property. Upon written request by and at no cost to the Council, Grantee will execute and deliver to the Council the Wastewater Facilities Easement[s] substantially in the form of the Easement attached hereto and incorporated herein as Exhibit B for the location or locations described by the Council in its written request to Grantee. The Council may exercise this contractual right to the Wastewater Facilities Easement[s] on one or more occasions.

The Council agrees to work cooperatively with Grantee to locate the Wastewater Facilities Easement[s] and the regional wastewater conveyance facilities on the Property in a manner which minimizes the impact on existing and planned park system facilities on the Property and natural resources. As further consideration for the conveyance of the Wastewater Facilities Easement[s], the Council agrees to waive the Sewer Availability Charge for the Property.

As a further condition for this Grant, the Council may, at any time after execution of this Grant, provide to Grantee written notification of the proposed location of a future regional wastewater conveyance corridor on the Property. Grantee agrees not to place or allow to be placed any restrictions, conditions, or encumbrances on the Property within the proposed future regional wastewater conveyance corridor without the written consent of the Council

This Agreement and Restrictive Covenant may be enforced by the Council or its successors, as then defined, by appropriate action in the courts of the State of Minnesota.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed in their respective names all as of the date first above written.

METROPOLITAN COUNCIL, a public corporation and political subdivision of the State of Minnesota

By: [Signature]
Community Development Director

Date: 4-4-14

TATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

EXHIBIT A

Legal Description of Property

That part of the NE 1/4 of the NE 1/4 of Section 18 and of the NW 1/4 of the NW 1/4 of Section 17, Township 116, Range 21 described as follows; Commencing at a point in the East line of said Section 18 distant 913.8 feet South of the Northeast corner of said section; thence North 75 degrees and 10 minutes West 107 feet; thence North parallel with the East line of said Section 171.47 feet; thence East at a right angle 103.47 feet to the East line of said Section; thence continuing East on said right angle line 29.6 feet; thence South parallel with the East line of said Section 18, 203.63 feet; thence North 80 degrees and 50 minutes West 30 feet to the point of beginning.

Together with an easement over a strip of land 33 feet in width running for the Southerly line of State Highway No. 5 in the Northeast 1/4 of the Northeast 1/4 of Section 18 in a Easterly and Southerly direction to the South line of the Northwest 1/4 of the Northwest 1/4 of Section 17-116-21, the center line of that part in Section 18 being described as follows: Commencing at a point in the East line of said Section 18 distant 913.8 feet South of the Northeast corner of said Section; thence North 75 degrees and 10 minutes West 356 feet, thence North 34 degrees West 335 feet, more or less, to the Southerly line of said State Highway No. 5; the center line of that part in section 17 being described as follows: Commencing at a point in the West line of said section 17 distant 913.8 feet South of the Northwest corner of said Section 17; thence South 80 degrees and 50 minutes East 197.3 feet; thence North 82 degrees and 49 minutes East 356.8 feet; thence South 56 degrees and 11 minutes East 247.4 feet to a point which is 572.1 feet West of the East line of the Northwest 1/4 of the Northwest 1/4 of said Section 17; thence South parallel with said East line to the South line of said Northwest 1/4 of the Northwest 1/4 of said Section 17 and there terminating.

Less and Except:

That part of the Northeast Quarter of the Northeast Quarter of Section 18 and of the Northwest Quarter of the Northwest Quarter of section 17, both in Township 116 North, Range 21 West, Hennepin County, Minnesota, described as follows: Beginning at a point on the east line of said Section 18, distant 913.80 feet south of the northeast corner of said section; thence North 75 degrees 10 minutes 00 seconds West 107 feet; thence north parallel with the east line of said section, 171.47 feet; thence east at a right angle, 103.47 feet to the east line of said section; thence continuing east on said right angle line for 29.60 feet; thence south parallel with the east line of said section 18 for 203.63 feet; thence North 80 degrees 50 minutes 00 seconds West, 30.00 feet to the point of beginning; excepting therefrom the right of way of Trunk Highway No. 494 as the same is now located and established;

which lies northerly of a line run parallel with and distant 89.00 feet southerly of Line described below:

From a point on the east line of said Section 18, distant 540.96 feet south of the northeast corner thereof, run westerly at an angle of 80 degrees 17 minutes 40 seconds from said east section line

(measured from south to west) for 1,733.89 feet to the point of beginning of Line to be described; thence run easterly along the last described course for 508.51 feet; thence deflect to the right on a tangential curve, having a radius of 7,639.44 feet and a delta angle of 10 degrees 24 minutes 00 seconds, for 1386.67 feet; thence on tangent to said curve for 300.00 feet and there terminating.

Abstract.

Property Address: 7907 Lea Rd, Bloomington, MN

Tax ID No.: 18-116-21-11-0003

[EXAMPLE]

EASEMENT

THIS INSTRUMENT, MADE THIS ____ day of _____, 20__, by and between _____, of the _____, Grantor, and the Metropolitan Council, a public corporation and political subdivision of the state (successor to the Metropolitan Waste Control Commission), Grantee;

WITNESSETH, that Grantor(s), in consideration of One Dollar and other good and valuable consideration to _____ in hand paid by Grantee, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell, and convey to Grantee, its successors and assigns, the following described easement for sanitary sewer and utility purposes:

[Insert Legal Description for **EASEMENT**]

Said temporary easement to expire on or before _____.

The above described easement includes the rights of grantee, its contractors, agents and employees to do whatever is necessary for enjoyment of the rights granted herein including the right to enter the easement for purposes of constructing, operating, maintaining, altering, repairing, replacing, and/or removing said sewers and utilities.

