

SUBGRANT AGREEMENT

AGREEMENT made this _____ day of _____, 2024, by and between the City of Chanhassen, a Minnesota municipal corporation (“City”) and _____, a _____ (“Subgrantee”).

RECITALS

A. Subgrantee is the fee owner of certain real property situated in the City of Chanhassen, Carver County, Minnesota, with a street address of _____ and legally described as follows:

(“Subject Property”).

B. The City applied for and received a 2024 Private Property Inflow and Infiltration (I/I) grant from the Metropolitan Council (“Met Council”) to be used in accordance with the Grant Agreement No. SG-20597, which includes as an attachment, the Grant Program Application for Participation and terms of the program contained at the following link: <https://metro council.org/Wastewater-Water/Funding-Finance/Available-Funding-Grants/Private-Property-Inflow-and-Infiltration-Grants.aspx> (collectively, the “Grant Agreement”).

C. The City established a Grant Program related to the use of the grant funds received under the Grant Agreement by Resolution No. ____ (“City Program”).

D. The City desires to subgrant a portion of the Metropolitan grant funds to Subgrantee on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of their mutual covenants the parties hereto agree as follows:

1. **Incorporation of Documents.** The Grant Agreement and the City Program are incorporated herein. In the event of a conflict between the Grant Agreement, the City Program and this Agreement, the documents shall be deemed to be controlling in the following order: 1) Grant Agreement, 2) the City Program, and 3) this Agreement.

2. **Award.** Subject to the terms of this Agreement, the City agrees to reimburse Subgrantee a portion of the Grant received by the City under the Grant Agreement for the activities described in the Grant Agreement, City Program, as further identified in this Agreement. The amount to be reimbursed to Subgrantee is as follows:

- 50% of eligible costs as defined in the Grant Agreement, up to \$5,000; **or**
- 100% of eligible costs as defined in the Grant Agreement, up to \$10,000, if the Subgrantee meets the equity portion of the City Program.

Subgrantee shall not be reimbursed for non-eligible costs. In the event that the City does not receive the grant funds under the Grant Agreement, no reimbursement will be made to the Subgrantee.

3. **Performance.**

A. In order to be eligible for the reimbursement of grant funds under this Agreement, Subgrantee shall complete the Eligible Work on the Property as defined and authorized under the Grant Agreement and the City Program.

B. The Subgrantee shall comply with the City Program and requirements that are applicable to the Subgrantee and City in the Grant Agreement. Any action or inaction of Subgrantee which could result in a default under the Grant Agreement or City Program will constitute noncompliance with this Agreement.

C. Qualified spending on Eligible Work by Subgrantee must occur between January 1, 2024 and December 31, 2024 or the City will not make any payment to the Subgrantee. In order to ensure that all funds are drawn prior to the Grant Agreement term end date, all payment requests from the Subgrantee must be received by the City at least thirty (30) days prior to January 31, 2025. The City is not obligated to provide funds for any Eligible Work or reimbursement requests that do not comply with this subparagraph.

D. Subgrantee agrees to use the Subgrant funds solely for the Eligible Work only at the Property. The Subgrant shall not be used for costs not included in or allowed by this Agreement, the Grant Agreement, or the City Program. The Subgrant funds may be used for labor costs related to any Eligible Work only if the labor is done by a third-party who has no financial interest in the Property, other than the value of such work, and the contractor has been determined to be acceptable by the City. Subgrantee must not contract with vendors who are suspended or debarred in Minnesota.

4. **Conditions Precedent to Disbursement.** Subgrantee acknowledges that the sole source of the Subgrant funds is the Grant Amount from the Met Council and that the City is not responsible for any funding under this Agreement. The following requirements are conditions precedent to the City's disbursement of any of the Subgrant funds to Subgrantee.

A. The Subgrantee must have provided evidence satisfactory to the City Engineer, or their designee, showing that Subgrantee has title in fee simple and site control of the Property.

B. The Subgrantee must have provided to the City Engineer, or their designee, such evidence of compliance with all of the provisions of this Agreement, the Grant Agreement, and the City Program as the City or Met Council may reasonably request or require, including, but not limited to, the following:

- (1) certification of completion of the Eligible Work on the Property and that work was not performed in violation of federal, Met Council, or local law or regulations and appropriate permits were issued and finalized for the work on the Property;
- (2) invoices for Eligible Work in accordance with the Grant Agreement and City Program.
- (4) if applying to meet the eligibility criteria of the City Program, documentation of being assessed through the MS 429 process in accordance with the City Program
- (5) a complete W-9 form

C. Subgrantee is not in default of the Grant Agreement, City Program or this Agreement.

D. Neither the City nor the Met Council has suspended its performance under the Grant Agreement or this Agreement based on a determination that a default has occurred under the terms of the Grant Agreement or this Agreement.

E. The Subgrantee has supplied to the City all other items that the Met Council or the City reasonably require under the terms of the Grant Agreement, the City Program or this Agreement.

5. **Disbursement.** It is expressly agreed and understood that the total amount to be disbursed to Subgrantee by the City under this Agreement shall not exceed the amount identified in Paragraph 2. The City will make disbursements only upon receipt of a written Reimbursement Request/Progress Report to the Met Council in a form provided by or acceptable to the City and Met Council (**Reimbursement Request**) and all necessary supporting invoices from Subgrantee acceptable to the City and Met Council. Payment requests must be accompanied by invoices supporting the reimbursement of the Subgrantee for the Eligible Work, the City will disburse the approved amount of Subgrant funds in accordance with the information provided in the Reimbursement Request.

6. **Notices.** Communication and details concerning this Agreement must be directed to the following Agreement representatives:

If to Subgrantee: _____

If to City: City of Chanhassen
 Attn: Erik Henricksen, Project Engineer
 7700 Market Boulevard
 Chanhassen, MN 55317

7. **General Conditions.**

A. **General Compliance.** The Subgrantee agrees to comply with all applicable federal, state, county, and local laws and regulations governing the Project and Subgrant funds provided under this Agreement, including without limitation all applicable OSHA regulations.

B. **Subcontracts.** The Subgrantee shall require that contractors performing work being paid with the Subgrant funds comply with all applicable federal, state, and local laws and regulations governing the Eligible Work on the Property. Subgrantee shall require that contractors performing work being paid with the Subgrantee funds be in compliance with all applicable OSHA regulations.

C. **Termination.** In the event the Grant Agreement is terminated, this Agreement shall contemporaneously terminate.

D. **Indemnification and Hold Harmless.** The Subgrantee shall hold harmless, defend and indemnify the City and Met Council from any and all liability, claims, actions, suits, charges, damages, losses, costs, expenses, and judgments whatsoever, including reasonable attorneys' fees, that arise directly or indirectly out of the Subgrantee's, its contractor's, or subcontractors' performance or nonperformance under this Agreement and any of its operations or activities related thereto, excluding the willful misconduct or the gross negligence of the person or entity seeking to be defended, indemnified, or held harmless. The provisions of this paragraph shall survive the termination of this Agreement. This indemnification shall not be construed as a waiver on the part of either the City or Met Council of any immunities or limits on liability provided by applicable State law.

8. **Miscellaneous.**

A. **Assignability.** The Subgrantee may not assign or transfer any interest in this Agreement (whether by assignment or novation) without the prior written consent of the City.

B. **No Additional Waiver Implied by One Waiver.** In the event any agreement contained in this Agreement should be breached by the Subgrantee and thereafter waived by the City, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

C. **No Remedy Exclusive.** No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any breach or default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the

City to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as required under this Agreement.

D. **Time.** Time is of the essence in the performance of the terms and conditions of this Agreement.

E. **Governing Law and Venue.** This Agreement will be governed by, and construed in accordance with, the laws of the State of Minnesota. The appropriate venue and jurisdiction for any litigation hereunder shall be in a court located in Carver County, Minnesota or as otherwise provided under the Grant Agreement.

F. **Data Disclosure.** Subgrantee agrees to disclose to the City and consents to disclosure of its federal employer tax identification number and/or Minnesota tax identification number to the City, City Personnel involved in processing Reimbursement Requests, to the Met Council, federal and state tax agencies and Met Council personnel involved in the payment of Met Council obligations.

G. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which is deemed an original, but all of which taken together constitute one and the same agreement.

H. **Survival.** Any terms of this Agreement which by their nature extend beyond termination of this Agreement shall survive and bind the parties and their successors and assigns.

I. **Default and Remedies.**

(1) **Defaults.** The Subgrantee's (a) failure to fully comply with all of the provisions contained in this Agreement, the Grant Agreement and the City Program, or (b) Subgrantee providing a false statement in Subgrantee's application for the subgrant or any documentation provided to the City, shall be an event of default hereunder ("Event of Default").

(2) **Remedies.** Upon an Event of Default, the City may exercise any one or more of the following remedies:

- a. Terminate this Agreement by written notice;
- b. Refrain from disbursing the subgrant funds;
- c. Demand that all or any portion of the subgrant already disbursed be repaid to it, and upon such demand the Subgrantee shall repay such amount to the City.
- d. Pursue whatever action, including legal, equitable or administrative action, which may appear necessary or desirable to collect any amounts due under this Agreement or to enforce the performance and observance of any obligation, agreement, or covenant of the Agreement, including refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed.

If action to correct substandard performance is not taken by the Subgrantee within thirty (30) calendar days, or such longer period specified by the City Engineer, or their designee, after written notice, the City may terminate this Agreement.

J. **Audit.** Under Minn. Stat. Section 16C.05, subd. 5, the Subgrantee's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the City, the Met Council and/or the State Auditor or Legislative Auditor, as appropriate for a minimum of six (6) years from the termination date of this Agreement.

K. **Government Data Practices.** The Subgrantee must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided to the City under this Agreement and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Subgrantee under this Agreement. The civil remedies of Minnesota Statutes § 13.08 apply to the release of the data referred to in this clause. If the Subgrantee receives a request to release the data referred to in this clause, the Subgrantee must immediately notify the City. The City will give the Subgrantee instructions concerning the release of the data to the requesting party before the data is released. The Subgrantee's response to the request shall comply with applicable law.

L. **Severability.** In the event any provision herein shall be deemed invalid or unenforceable, the remaining provisions shall continue in full force and effect and shall be binding upon the parties to this Agreement.

M. **Entire Agreement.** This Agreement and documents incorporated herein by reference, constitutes the entire agreement between the City and Subgrantee and supersedes all prior written and oral agreements and negotiations between the parties relating to the subject matter hereto.

[Signature pages to follow]

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

CITY OF CHANHASSEN

By: _____

Elise Ryan, Mayor

By: _____

Laurie Hokkanen, City Manager

SUBGRANTEE

Print Name: _____