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| **GRANTEE:** City of Saint Paul | **GRANT NO.** SG013-160 |
| **PROJECT:** Lowertown Ballpark | |
| **GRANT AMOUNT:** $748,100 | **FUNDING CYCLE:** 2013 |
| **COUNCIL ACTION:** January 22, 2014 | **EXPIRATION DATE:** December 31, 2016 |

## METROPOLITAN LIVABLE COMMUNITIES ACT
## GRANT AGREEMENT

**THIS GRANT AGREEMENT** ("Agreement") is made and entered into by the Metropolitan Council ("Council") and the Municipality or Development Authority identified above as "Grantee."

**WHEREAS**, Minnesota Statutes section 473.251 creates the Metropolitan Livable Communities Fund, the uses of which fund must be consistent with and promote the purposes of the Metropolitan Livable Communities Act ("LCA") and the policies of the Council's Metropolitan Development Guide; and

**WHEREAS**, Minnesota Statutes sections 473.251 and 473.252 establish within the Metropolitan Livable Communities Fund a Tax Base Revitalization Account and require the Council to use the funds in the account to make grants to Municipalities or Development Authorities for the cleanup of polluted land in the seven-county metropolitan area; and

**WHEREAS**, the Grantee is a Municipality or a Development Authority as defined in Minnesota Statutes section 473.252, subdivisions 1 and 1a; and

**WHEREAS**, the Grantee seeks funding in connection with an application for Tax Base Revitalization Account funds submitted in response to the Council's notice of availability of grant funds for the "Funding Cycle" identified above and will use the grant funds made available under this Agreement to help fund the "Project" identified in the application; and

**WHEREAS**, the Council awarded Tax Base Revitalization Account grant funds to the Grantee subject to any terms, conditions or clarifications stated in its Council Action, and with the understanding that the Project identified in the application will proceed to completion in a timely manner, all grant funds will be expended prior to the "Expiration Date" identified above, and Project development or redevelopment construction will have "commenced" before the Expiration Date.

**NOW THEREFORE**, in reliance on the above statements and in consideration of the mutual promises and covenants contained in this Agreement, the Grantee and the Council agree as follows:

### I. DEFINITIONS

**1.01. Definition of Terms.** The terms defined in this section have the meanings given them in this section unless otherwise provided or indicated by the context.

(a) ***Cleanup Costs or Costs.*** "Cleanup Costs" or "Costs" means:

(1) For hazardous waste or substance contamination, the cost of implementing a voluntary response action plan approved by the Minnesota Pollution Control Agency under Minnesota Statutes section 115B.175, subdivision 3.

(2) For asbestos contamination, the cost of implementing a project-specific asbestos project plan for the Site and performing asbestos-related work which is carried out by contractors or subcontractors licensed or certified by the Commissioner of Health under the Minnesota Asbestos Abatement Act, Minnesota Statutes sections 326.70 to 326.81, in accordance with rules prescribed by the Commissioner of Health related to asbestos abatement and asbestos management activity, and meeting the federal Asbestos Hazard Emergency Response Act ("AHERA") standards for asbestos.

(3) For petroleum contamination, the cost of implementing a corrective action plan for the Site approved by the Minnesota Pollution Control Agency under Minnesota Statutes chapter 115C.

(4) For lead abatement, the cost of lead abatement work performed by certified contractors consistent with all applicable federal and state laws, rules and standards governing lead abatement or regulated lead work on residential or commercial properties.

(b) ***Commenced.*** For the purposes of Sections 2.08 and 5.03, "commenced" means significant physical improvements have occurred in furtherance of the Project (*e.g.*, a foundation is being constructed or other tangible work on a structure has been initiated). In the absence of significant physical improvements, visible staking, engineering, land surveying, soil testing, cleanup site investigation, or pollution cleanup activities are not evidence of Project commencement for the purposes of this Agreement.

(c) ***Council Action.*** "Council Action" means the action or decision of the governing body of the Metropolitan Council, on the meeting date identified at Page 1 of this Agreement, by which the Grantee was awarded Tax Base Revitalization Account grant funds.

(d) ***Development Authority.*** "Development Authority" means a statutory or home rule charter city, a housing and redevelopment authority, an economic development authority, or a port authority in the metropolitan area as defined by Minnesota Statutes section 473.121, subdivision 2.

(e) ***Municipality.*** "Municipality" means a statutory or home rule charter city or town participating in the Local Housing Incentives Program under Minnesota Statutes section 473.254, or a county in the metropolitan area as defined by Minnesota Statutes section 473.121, subdivision 2.

(f) ***Participating Municipality.*** "Participating Municipality" means a statutory or home rule charter city or town that has elected to participate in the Local Housing Incentive Account program and negotiated affordable and life-cycle housing goals for the Municipality pursuant to Minnesota Statutes section 473.254.

(g) ***Project.*** Unless clearly indicated otherwise by the context of a specific provision of this Agreement, "Project" means the development or redevelopment project identified in the application for Tax Base Revitalization Account funds for which grant funds were requested. Grant-funded activities typically are components of the Project.

(h) ***Project Costs.*** "Project Costs" means all costs as defined in Minnesota Statutes section 116J.552, subdivision 7.

(i) ***Site.*** "Site" means the polluted land proposed by the Grantee to be cleaned up and located both within the metropolitan area and within a Participating Municipality.

## II. GRANT FUNDS

**2.01. Source of Funds.** The grant funds made available to the Grantee under this agreement are from the Tax Base Revitalization Account of the Metropolitan Livable Communities Fund. The grant funds are derived from the area-wide tax imposed under Minnesota Statutes chapter 473F and are not from federal sources.

**2.02. Total Grant Amount.** The Council will grant to the Grantee the "Grant Amount" identified at Page 1 of this Agreement. Notwithstanding any other provision of this Agreement, the Grantee understands and agrees that any reduction or termination of Tax Base Revitalization Account funds made available to the Council may result in a like reduction in the Grant Amount made available to the Grantee.

**2.03. Authorized Use of Grant Funds.** The Grant Amount made available to the Grantee under this Agreement shall be used only for Cleanup Costs for the cleanup of the Site described in the application for Tax Base Revitalization Account funds. A Project summary that identifies eligible uses of the grant funds as approved by the Council is attached to and incorporated into this Agreement as Attachment A. Aerial photography or drawings that identify the specific location(s) within the Project boundaries or the Site(s) for which cleanup grant funds mus be used is attached to and incorporated into this Agreement as Attachment B. Grant funds must be used for cleanup of the Site which must be located in a Participating Municipality. If consistent with the application and subject to the limitations in Minnesota Statutes section 116J.556, the Grantee may use the grant funds to provide a portion of the local match requirement for Project Costs that qualify for a grant under Minnesota Statutes sections 116J.551 to 116J.557.

**2.04. Ineligible Uses.** Grant funds must be used for costs directly associated with the specific proposed Project activities for which the grant funds were awarded and shall not be used for "soft costs" such as: administrative overhead; travel expenses; legal fees; insurance; bonds; permits, licenses or authorization fees; costs associated with preparing grant proposals or applications; operating expenses; planning costs, including comprehensive planning costs; and prorated lease and salary costs. Grant funds may not be used for costs of Project activities that occurred prior to the grant award, unless the pre-award costs were for:

(a) Site investigation work that occurred within 180 days of the Funding Cycle application due date and is identified as a grant-funded activity in Attachment A; or

(b) Project cleanup activities that occurred within 180 days of the Funding Cycle application due date that were expressly approved by the Council Action and are described or identified in Attachments A and B.

A detailed list of ineligible and eligible costs is available from the Council's Livable Communities program office. Grant funds also shall not be used by the Grantee or others to supplant or replace: (a) grant or loan funds obtained for the Project from other sources; or (b) Grantee contributions to the Project, including financial assistance, real property or other resources of the Grantee. The Council shall bear no responsibility for cost overruns which may be incurred by the Grantee or others in the implementation or performance of the Project activities. The Grantee agrees to comply with any "business subsidy" requirements of Minnesota Statutes sections 116J.993 to 116J.995 that apply to the Grantee's expenditures or uses of the grant funds.

**2.05. Loans for Low-Income Housing Tax Credit Projects.** If consistent with the application and the Project activities described in Attachment A or if requested in writing by the Grantee, the Grantee may structure the grant assistance to the Project as a loan so the Project Owner can take advantage of federal and state low-income housing tax credit programs. The Grantee may use the grant funds as a loan for a low-income housing tax credit Project, subject to the terms and conditions stated in Sections 2.03 and 2.04 and the following additional terms and conditions:

(a) The Grantee covenants and represents to the Council that the Project is a rental housing project that received or will receive an award of low-income housing tax credits under section 42 of the Internal Revenue Code of 1986, as amended, and the low-income housing tax credit program administered by the Minnesota Housing Finance Agency.

(b) The Grantee will execute a loan agreement with the Project Owner. Prior to disbursing any grant funds for the Project, the Grantee will provide to the Council a copy of the loan agreement between the Grantee and the Project Owner.

(c) The Grantee will submit annual written reports to the Council that certify: (1) the grant funds continue to be used for the Project for which the grant funds were awarded; and (2) the Project is a "qualified low-income housing project" under section 42 of the Internal Revenue Code of 1986, as amended. This annual reporting requirement is in addition to the reporting requirements stated in Section 3.03. Notwithstanding the Expiration Date identified at Page 1 of this Agreement and referenced in Section 5.01, the Grantee will submit the annual certification reports during the initial "compliance period" and any "extended use period," or until such time as the Council terminates this annual reporting requirement by written notice to the Grantee.

(d) The grant funds made available to the Grantee and disbursed to the Project Owner by the Grantee in the form of a loan may be used only for the grant-eligible activities and Project components for which the Grantee was awarded the grant funds. For the purposes of this Agreement, the term "Project Owner" means the current Project Owner and any Project Owner successor(s).

(e) Pursuant to Section 2.04, the grant funds made available to the Grantee and disbursed to the Project Owner in the form of a loan shall not be used by the Grantee, the Project Owner or others to supplant or replace: (1) grant or loan funds obtained for the Project from other sources; or (2) Grantee contributions to the Project, including financial assistance, real property or other resources of the Grantee. The Council will not make the grant funds available to the Grantee in a lump sum payment, but will disburse the grant funds to the Grantee on a reimbursement basis pursuant to Section 2.10.

(f) By executing this Agreement, the Grantee: (1) acknowledges that the Council expects the loan will be repaid so the grant funds may be used to help fund other activities consistent with the requirements of the Metropolitan Livable Communities Act; (2) covenants, represents and warrants to the Council that the Grantee's loan to the Project Owner will meet all applicable low-income housing tax credit program requirements under section 42 of the Internal Revenue Code of 1986, as amended (the "Code"), and the low-income housing tax credit program administered by the Minnesota Housing Finance Agency; and (3) agrees to administer its loan to the Project Owner consistent with federal and state low-income housing tax credit program requirements.

(g) The Grantee will, at its own expense, use diligent efforts to recover loan proceeds: (1) when the Project Owner becomes obligated to repay the Grantee's loan or defaults on the Grantee's loan; (2) when the initial thirty-year "compliance period" expires, unless the Council agrees in writing that the Grantee may make the grant funds available as a loan to the Project Owner for an "extended use period"; and (3) if noncompliance with low-income housing tax credit program requirements or some other event triggers the Project Owner's repayment obligations under its loan agreement with the Grantee. The Grantee must repay to the Council all loan repayment amounts the Grantee receives from the Project Owner. The Grantee shall not be obligated to repay the grant funds to the Council except to the extent the Project Owner repays its loan to the Grantee, provided the Grantee has exercised the reasonable degree of diligence and used administrative and legal remedies a reasonable and prudent public housing agency would use to obtain payment on a loan, taking into consideration (if applicable) the subordinated nature of the loan. At its discretion, the Council may: (1) permit the Grantee to use the loan repayment from the Project Owner to continue supporting affordable housing components of the Project; or (2) require the Grantee to remit the grant funds to the Council.

(h) If the Grantee earns any interest or other income from its loan agreement with the Project Owner, the Grantee will: (1) use the interest earnings or income only for the purposes of implementing the Project activities for which the grant was awarded; or (2) remit the interest earnings or income to the Council. The Grantee is not obligated to earn any interest or other income from its loan agreement with the Project Owner, except to the extent required by any applicable law.

**2.06. Deferred Loans.** If consistent with the application and the Project summary, the Grantee may use the grant funds to make deferred loans (loans made without interest or periodic payments) for the purposes of implementing the Project activities described or identified in Attachments A and B. The Grantee will submit annual written reports to the Council that report on the uses of the grant funds. The form and content of the report will be determined by the Council. This annual reporting

requirement is in addition to the reporting requirements stated in Section 3.03. Notwithstanding the Expiration Date identified at Page 1 of this Agreement and referenced in Section 5.01, the Grantee will submit the annual reports until the deferred loan is repaid, or until such time as the Council terminates this annual reporting requirement by written notice from the Council. At its discretion, the Council may: (a) permit the Grantee to use loan repayments to continue supporting affordable housing components of the Project; or (b) require the Grantee to remit the grant funds to the Council.

**2.07. Restrictions on Loans by Subgrantees.** The Grantee shall not permit any subgrantee or subrecipient to use the grant funds for loans to any subrecipient at any tier unless the Grantee obtains the prior written consent of the Council. The requirements of this Section 2.07 shall be included in all subgrants.

**2.08. Project Commencement and Changes.** The Project for which grant funds were requested must be "commenced" prior to the Expiration Date. The Grantee must promptly inform the Council in writing of any significant changes to the Project for which the grant funds were awarded, as well as any potential changes to grant-funded activities described or identified in Attachments A and B. Failure to inform the Council of any significant changes to the Project or significant changes to grant-funded components of the Project, and use of grant funds for ineligible or unauthorized purposes, will jeopardize the Grantee's eligibility for future LCA awards. Grant funds will not be disbursed prior to Council approval of significant changes to either the Project or grant-funded activities described or identified in Attachments A and B.

**2.09. Loss of Grant Funds.** The Grantee agrees to remit to the Council in a prompt manner: any unspent grant funds, including any grant funds that are not expended prior to the Expiration Date identified at Page 1 of this Agreement; any grant funds that are not used for the authorized purposes; and any interest earnings described in Section 2.11 that are not used for the purposes of implementing the grant-funded Project activities described or identified in Attachments A and B. For the purposes of this Agreement, grant funds are "expended" prior to the Expiration Date if the Grantee pays or is obligated to pay for expenses of eligible grant-funded Project activities that occurred prior to the Expiration Date and the eligible expenses were incurred prior to the Expiration Date. Unspent or unused grant funds and other funds remitted to the Council shall revert to the Council's Tax Base Revitalization Account for distribution through application processes in future Funding Cycles or as otherwise permitted by law.

**2.10. Payment Request Forms, Documentation, and Disbursements.** The Council will disburse grant funds in response to written payment requests submitted by the Grantee and reviewed and approved by the Council's authorized agent. Written payment requests shall be made using payment request forms, the form and content of which will be determined by the Council. Payment request and other reporting forms will be provided to the Grantee by the Council. Payment requests must include the following documentation:

(a) Contaminated fill disposal documentation (showing unit rates, one manifest per truck per load, and weight/load tickets);

(b) A spread sheet matching manifest, load tickets and final weights; and



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(c) Consultant/contractor invoices showing the time period covered by the invoice; the specific grant-funded Project activities conducted or completed during the authorized time period within which eligible costs may be incurred; and documentation supporting expenses including subcontractor and consultant invoices showing unit rates and quantities. Subcontractor markups shall not exceed ten percent (10%).

The Council will disburse grant funds on a reimbursement basis or a "cost incurred" basis. The Grantee must provide with its written payment requests documentation that shows grant-funded Project activities actually have been completed. Subject to verification of each payment request form (and the required documentation) and approval for consistency with this Agreement, the Council will disburse a requested amount to the Grantee within two (2) weeks after receipt of a properly completed and verified payment request form.

**2.11. Interest Earnings.** If the Grantee earns any interest or other income from the grant funds received from the Council under this Agreement, the Grantee will use the interest earnings or income only for the purposes of implementing the Project activities described or identified in Attachments A and B.

**2.12. Effect of Grant.** Issuance of this grant neither implies any Council responsibility for the contamination at the Site nor imposes any obligation on the Council to participate in the cleanup of the Site contamination or in the Cleanup Costs beyond the Grant Amount of this Agreement. By awarding grant funds to the Grantee for the Project and executing this Agreement, the Council assumes no responsibility for: (a) any damage to persons, property, or the environment caused by Site cleanup activities or implementation of the Project; or (b) determining whether intended uses of the Site identified in the grant application or potential future uses of the Site, including any residential uses, are suitable for the Site.

## III. ACCOUNTING, AUDIT AND REPORT REQUIREMENTS

**3.01. Accounting and Records.** The Grantee agrees to establish and maintain accurate and complete accounts and records relating to the receipt and expenditure of all grant funds received from the Council. Notwithstanding the expiration and termination provisions of Sections 5.01 and 5.02, such accounts and records shall be kept and maintained by the Grantee for a period of six (6) years following the completion of the Project activities described or identified in Attachments A and B or six (6) years following the expenditure of the grant funds, whichever occurs earlier. Accounting methods shall be in accordance with generally accepted accounting principles.

**3.02. Audits.** The above accounts and records of the Grantee shall be audited in the same manner as all other accounts and records of the Grantee are audited and may be audited or inspected on the Grantee's premises or otherwise by individuals or organizations designated and authorized by the Council at any time, following reasonable notification to the Grantee, for a period of six (6) years following the completion of the Project activities or six (6) years following the expenditure of the grant funds, whichever occurs earlier. Pursuant to Minnesota Statutes section 16C.05, subdivision 5, the books, records, documents and accounting procedures and practices of the Grantee that are relevant to this Agreement are subject to examination by the Council and either the Legislative Auditor or the State Auditor, as appropriate, for a minimum of six (6) years.

**3.03. Report Requirements.** The Grantee will report to the Council on the status of the Project activities described or identified in Attachments A and B and the expenditures of the grant funds. Submission of properly completed payment request forms (with proper documentation) required under Section 2.10 will constitute periodic status reports. The Grantee also must complete and submit to the Council a grant activity closeout report. The closeout report form must be submitted within 120 days after the expiration or termination of this Agreement. Within 120 days after the Expiration Date, the Grantee must complete and submit to the Council a certification of expenditures of funds form signed by the Grantee's chief financial officer or finance director. The form and content of the closeout report and certification form will be determined by the Council. In addition to the periodic status reports, the grant activity closeout report, and the certification form, the Grantee must submit to the Council by April 15 of the year following the expiration of this Agreement and by April 15 of each of the succeeding three (3) years, an annual written report that includes information about redevelopment activities, net tax capacity of the Site, and jobs resulting from Site cleanup. The form and content of the annual written report will be determined by the Council. The reporting requirements of Sections 3.03 and 3.04 shall survive the expiration or termination of this Agreement.

**3.04. Certificate of Completion.** Upon completion of the Site cleanup, the Grantee will provide to the Council:

(a) For hazardous waste or substance contamination, a copy of a certificate of completion for the Site issued by the Minnesota Pollution Control Agency pursuant to Minnesota Statutes section 115B.175, or a letter from the Agency indicating that the approved voluntary response action plan for the Site has been implemented to the satisfaction of the Agency and that the Agency is issuing a determination that no further action is required under Minnesota Statutes sections 115B.01 to 115B.08 to address the identified release; or

(b) For asbestos contamination, either: (1) a copy of a statement from the Grantee's licensed asbestos abatement contractor that the project-specific asbestos project plan and asbestos-related work for the Site have been completed in accordance with the rules of the Minnesota Department of Health; or (2) a final asbestos abatement implementation report that shows the project-specific asbestos project plan and asbestos-related work for the Site have been completed in accordance with the rules of the Minnesota Department of Health; or

(c) For petroleum contamination, a copy of a site closure letter issued by the Minnesota Pollution Control Agency pursuant to Minnesota Statutes chapter 115C; or

(d) For lead abatement or regulated lead work: (1) a copy of the contractor firm certification to conduct lead-based paint activities in residential or child-occupied facilities per Code of Federal Regulations, Title 40, section 745.89 and Minnesota Statutes section 144.9505; and (2) a statement or other documentation from the certified contractor that the lead abatement or regulated work at the Site has been completed in accordance with applicable provisions of Code of Federal Regulations, Title 40, part 745 and state laws, rules and standards governing lead abatement according to the Lead Poisoning Prevention Act, Minnesota Statutes sections 144.9501 to 144.9512 and Minnesota Rules parts 4761.2000 to 4761.2700.

## IV. RECOVERY AND REPAYMENT

**4.01. Recovery of Funds.** If the Grantee recovers funds pursuant to an action under Minnesota Statutes section 115B.04, or other law, to recover the reasonable and necessary Project Costs incurred to clean up the Site, the Grantee shall repay to the Council that portion of the grant as provided in Section 4.04.

**4.02. Assignment of Rights.** Upon request of the Council, the Grantee shall assign to the Council the Grantee's right to recover the funds described in Section 4.01, shall prepare and submit a certification of the Project Costs incurred, and shall cooperate in any cost recovery action brought by the Council.

**4.03. Expenses of Recovery.** The reasonable litigation expenses or other costs of legal or technical assistance incurred by the Grantee, the Council, or both, may be deducted from recovery obtained in accordance with Sections 4.01 or 4.02 and reimbursed to the entity incurring such costs before proceeds of the recovery are distributed in accordance with Section 4.04.

**4.04. Reimbursement.** Subject to the deduction provided in Section 4.03, amounts recovered either by the Grantee or the Council from responsible persons and all other amounts otherwise received by the Grantee or the Council for cleanup of the Site shall be used to reimburse the Grantee, the Council, or any other nonresponsible party who contributed funds for cleanup of the Site in proportion to their respective payments for response costs.

**4.05. Survival of Recovery and Repayment Provisions.** The provisions of Sections 4.01 through 4.04 shall survive the expiration or termination of this Agreement.

## V. AGREEMENT TERM

**5.01. Term.** This Agreement is effective upon execution of the Agreement by the Council. Unless terminated pursuant to Section 5.02, this Agreement expires on the Expiration Date identified at Page 1 of this Agreement. **ALL GRANT FUNDS NOT EXPENDED BY THE GRANTEE PRIOR TO THE EXPIRATION DATE SHALL REVERT TO THE COUNCIL.**

**5.02. Termination.** This Agreement may be terminated by the Council for cause at any time upon fourteen (14) calendar days' written notice to the Grantee. Cause shall mean a material breach of this Agreement and any amendments of this Agreement. If this Agreement is terminated prior to the Expiration Date, the Grantee shall receive payment on a pro rata basis for eligible Project activities described or identified in Attachments A and B that have been completed prior to the termination. Termination of this Agreement does not alter the Council's authority to recover grant funds on the basis of a later audit or other review, and does not alter the Grantee's obligation to return any grant funds due to the Council as a result of later audits or corrections. If the Council determines the Grantee has failed to comply with the terms and conditions of this Agreement and the applicable provisions of the Metropolitan Livable Communities Act, the Council may take any action to protect the Council's interests and may refuse to disburse additional grant funds and may require the Grantee to return all or part of the grant funds already disbursed.

**5.03. Amendments and Extension.** The Council and the Grantee may amend this Agreement by mutual agreement. Amendments or an extension of this Agreement shall be effective only on the execution of written amendments signed by authorized representatives of the Council and the Grantee. If the Grantee needs additional time within which to complete the grant-funded activities and commence the Project, the Grantee must submit to the Council **AT LEAST NINETY (90) CALENDAR DAYS PRIOR TO THE EXPIRATION DATE**, a resolution of the Grantee's governing body requesting the extension and a written extension request. The form and content of the written extension request and instructions for requesting an extension are available online at: *http://www.metrocouncil.org.* **THE EXPIRATION DATE MAY BE EXTENDED, BUT THE PERIOD OF ANY EXTENSION(S) SHALL NOT EXCEED TWO (2) YEARS BEYOND THE ORIGINAL EXPIRATION DATE IDENTIFIED AT PAGE 1 OF THIS AGREEMENT.**

## VI. GENERAL PROVISIONS

**6.01. Equal Opportunity.** The Grantee agrees it will not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability, sexual orientation or age and will take affirmative action to insure 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.

**6.02. Conflict of Interest.** The members, officers and employees of the Grantee shall comply with all applicable state statutory and regulatory conflict of interest laws and provisions.

**6.03. Liability.** Subject to the limitations provided in Minnesota Statutes chapter 466, to the fullest extent permitted by law, the Grantee shall defend, indemnify and hold harmless 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 the conduct or implementation of the Project activities funded by this grant, except to the extent the claims, damages, losses and expenses arise from the Council's own negligence. 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, United States Code, Title 42, sections 9601 *et seq.*, and the federal Resource Conservation and Recovery Act of 1976 (RCRA) as amended, United States Code, Title 42, 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 section shall survive the expiration or termination of this Agreement. This indemnification 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. Acknowledgments and Signage.** The Grantee will acknowledge the financial assistance provided by the Council in promotional materials, press releases, reports and publications relating to the Project activities described or identified in Attachments A and B which are funded in whole or in part with the grant funds. The acknowledgment will contain the following or comparable language:



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*Financing for this project was provided by the Metropolitan Council Metropolitan Livable Communities Fund.*

Until the Project activities funded by this Agreement are completed, the Grantee will ensure the above acknowledgment language, or alternative language approved by the Council's authorized agent, is included on all signs (if any) located at Project or construction sites that identify Project funding partners or entities providing financial support for the Project. The acknowledgments and signage should refer to the "Metropolitan Council" (not "Met Council" or "Metro Council").

**6.05. Permits, Bonds and Approvals.** The Council assumes no responsibility for obtaining any applicable local, state or federal licenses, permits, bonds, authorizations or approvals necessary to perform or complete the Project activities described or identified in Attachments A and B. The Grantee and its developer(s), if any, must comply with all applicable licensing, permitting, bonding, authorization and approval requirements of federal, state and local governmental and regulatory agencies, including conservation districts.

**6.06. Subgrantees, Contractors and Subcontractors.** The Grantee shall include in any subgrant, contract or subcontract for Project activities appropriate provisions to ensure subgrantee, contractor and subcontractor compliance with all applicable state and federal laws and this Agreement. Along with such provisions, the Grantee shall require that contractors and subcontractors performing work covered by this grant obtain all required permits, licenses and certifications, and comply with all applicable state and federal Occupational Safety and Health Act regulations, especially the federal Hazardous Waste Operations and Emergency Response standards under Code of Federal Regulations, Title 29, sections 1910.120 and 1926.65.

**6.07. Stormwater Discharge and Water Management Plan Requirements.** If any grant funds are used for urban site redevelopment, the Grantee shall at such redevelopment site meet or require to be met all applicable requirements of:

(a) Federal and state laws relating to stormwater discharges including, without limitation, any applicable requirements of Code of Federal Regulations, Title 40, parts 122 and 123; and

(b) The Council's *2030 Water Resources Management Policy Plan* and the local water management plan for the jurisdiction within which the redevelopment site is located.

**6.08. Authorized Agent.** Payment request forms, written reports and correspondence submitted to the Council pursuant to this Agreement shall be directed to:

Metropolitan Council
Attn: LCA Grants Administration
390 Robert Street North
Saint Paul, Minnesota 55101-1805

**6.09. Non-Assignment.** Minnesota Statutes section 473.252, subdivision 3 requires the Council to distribute grant funds to eligible "municipalities," metropolitan-area counties or "development authorities" for projects in municipalities participating in the Local Housing Incentives Account program. Accordingly, this Agreement is not assignable and shall not be assigned by the Grantee.

**6.10. Warranty of Legal Capacity.** The individuals signing this Agreement on behalf of the Grantee and on behalf of the Council represent and warrant on the Grantee's and the Council's behalf respectively that the individuals are duly authorized to execute this Agreement on the Grantee's and the Council's behalf respectively and that this Agreement constitutes the Grantee's and the Council's valid, binding and enforceable agreements.

**IN WITNESS WHEREOF**, the Grantee and the Council have caused this Agreement to be executed by their duly authorized representatives. This Agreement is effective on the date of final execution by the Council.

**GRANTEE CITY OF SAINT PAUL**

By: _____
Paul Williams
Deputy Mayor

Date: 3/20/14

By: _____
Michael Hahm, Director
Parks and Recreation

3.13.14

Date: 3-14-14

**METROPOLITAN COUNCIL**

By: _____
Guy Peterson, Director
Community Development Division

Date: 4-18-14

**APPROVED AS TO FORM**

By: _____
Virginia Palmer
City Attorney

Date: 3/18/14

## ATTACHMENT A

### PROJECT SUMMARY

This attachment comprises this page and the succeeding page(s) which contain(s) a summary of the Project identified in the application for Tax Base Revitalization Account grant funds submitted in response to the Council's notice of availability of Tax Base Revitalization Account grant funds for the Funding Cycle identified at Page 1 of this Agreement. The summary reflects the proposed Project for which the Grantee was awarded grant funds by the Council Action, and may reflect changes in Project funding sources, changes in funding amounts, or minor changes in the proposed Project that occurred subsequent to application submission. The application is incorporated into this Agreement by reference and is made a part of this Agreement as follows. If the application or any provision in the application conflicts with or is inconsistent with the Council Action, other provisions of this Agreement, or the Project Summary contained in this Attachment A, the terms, descriptions and dollar amounts reflected in the Council Action or contained in this Agreement and the Project Summary shall prevail. For the purposes of resolving conflicts or inconsistencies, the order of precedence is: (1) the Council Action; (2) this Agreement; (3) the Project Summary and Cleanup Site Locations; and (4) the grant application.

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**Grant Number** SG013-160
**Grant Type** Contamination Cleanup
**Applicant** City of Saint Paul
**Project Name** Lowertown Ballpark
**Project Location** 310 East Fifth Street, Saint Paul
**Council District** 13 – Kramer

| **Project Detail** | |
|---|---|
| Contaminant history | The 9.7-acre industrial site was historically used as a coal gas manufacturing site and various manufacturing and storage uses. The primary contaminants of concern identified include buried asbestos, and polynuclear aromatic hydrocarbons (PAHs), volatile organic compounds (VOCs), metals (lead) and petroleum impacts to soil and ground water, and related soil vapor impacts. |
| Redevelopment project to start construction by 12/31/16 | Expected benefits include the development of a 7,000-seat baseball stadium. |
| Jobs (FTEs) | 59 |
| Net tax capacity increase | $250,000 (annual Payment-in-Lieu-of-Taxes) |
| Acres cleaned | 9.7 |
| Total housing units | NA |
| Affordable units (60% AMI) | NA |
| **Funding** | |
| Requested amount | $748,100 for environmental investigation, soil and ground water remediation (including an impermeable infiltration barrier) and soil vapor mitigation |
| Funding partners | $747,900 from Ramsey County (Contamination cleanup funding previously awarded for the project includes $2M from DEED in 2012-2013.) |
| Comments | Activities incurred before the date of grant award are not eligible for TBRA funding. Demolition, dewatering and geotechnical costs are also not eligible for funding. |
| **Use of Funds** | |
| Amount | Uses to be completed by 12/31/2016 |
| $748,100 | For environmental investigation, soil and ground water remediation (including an impermeable infiltration barrier) and soil vapor mitigation. |

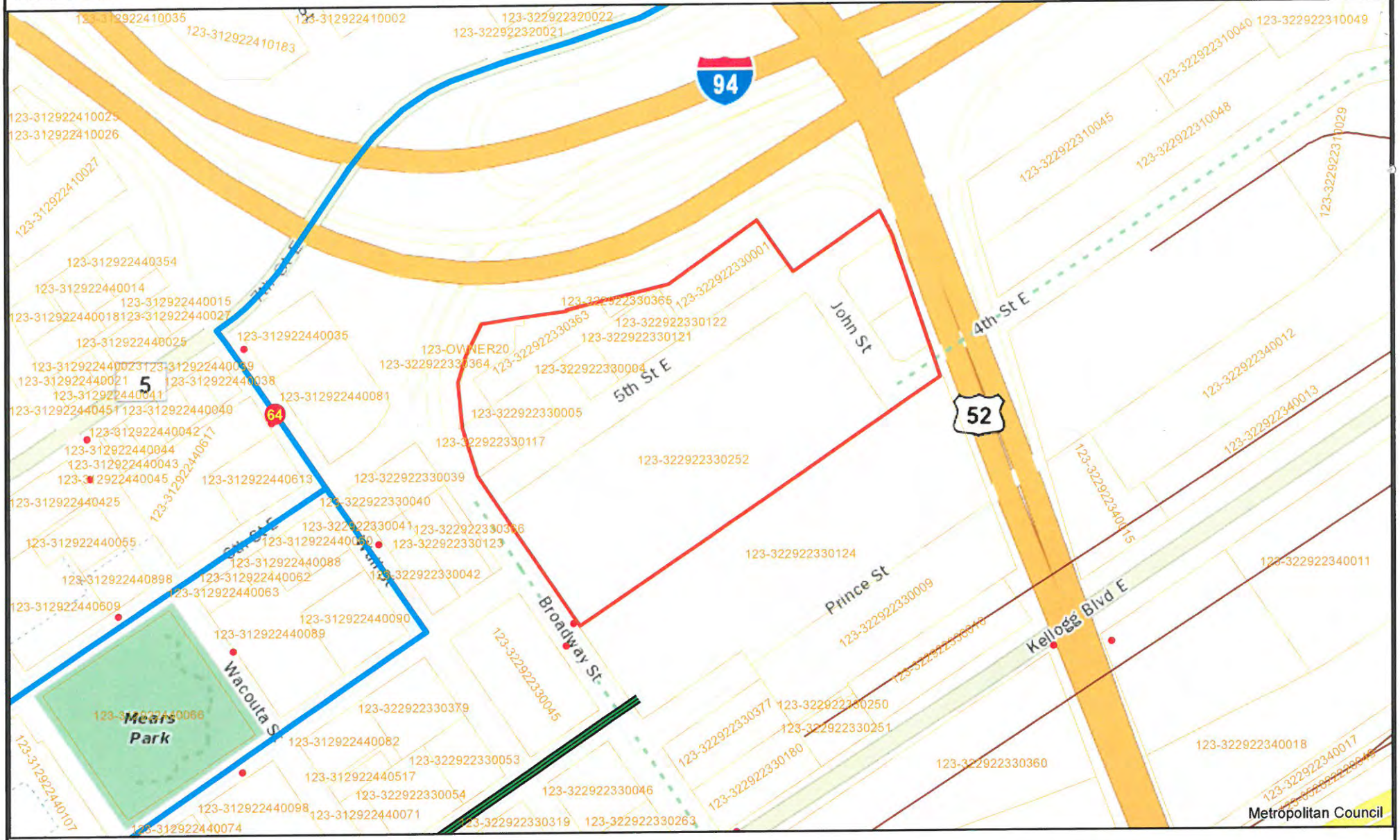
## ATTACHMENT B

## CLEANUP SITE LOCATION(S)

This attachment comprises this page and the succeeding page(s) which contain aerial photography or drawings that identify the specific location(s) within the Project boundaries or the Site(s) for which the grantee must use the grant funds. The attached photography or drawings also may identify the types of eligible cleanup activities for which the grant funds must be used at specific locations within the Project boundaries or within the Site(s).

# LCA Site

TBRA Project: Lowertown Ballpark | Map ID: 1383331802577




TOD Area
Project
Walk Route
Blue Line Stations
Northstar Commuter Rail Stations
Green Line Planned Stations
Orange Line Planned Stations
Red Line Planned Stations
Hi-Frequency Service Network
Blue Line
Green Line Planned
Northstar Commuter Rail
Park & Ride Lots
Active Transit Stops
Railroads
Parcels
Metropolitan Council Basemap

0 0.03 0.06 0.12 0.18 0.24 Miles

Created: 11/1/2013
LandscapeLCA1

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METROPOLITAN COUNCIL