

Metropolitan Council
Inflow and Infiltration Demonstration Project Grant

Recipient: City of Saint Paul, Public Works	Grant No.: 1
Project: Inflow and Infiltration Demonstration Project	
Grant Period: Agreement Date through January 31, 2022	
Council Action: Complete – Guidelines approved July 11, 2018	
Estimated Project Amount: \$1,000,000	
Maximum Grant Amount: \$500,000	Recipient Match: \$500,000

GRANT AGREEMENT

THIS AGREEMENT is made and entered into by and between the Metropolitan Council (“the Council”) and Recipient named above.

RECITALS

1. The Council authorized its staff to enter into an inflow and infiltration demonstration project grant with a local unit of government. This grant is to support funding of a Project that adds to the knowledge base of technically effective and cost-effective I&I flow reduction strategies. This project supports the Metropolitan Council Thrive MSP 2040 outcomes of Sustainability and Stewardship. A sustainable and reliable regional wastewater system can be achieved with investments to local sewer systems to reduce excessive flows from I&I. The information and knowledge gained from this project will be shared with communities, making this a strategic investment that supports stewardship.
2. Recipient has expressed an interest in participating in the demonstration project grant.
3. Recipient represents that it has the technical capability and is duly qualified to implement and perform all services described in this grant agreement to the satisfaction of the Council.

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

Section 1. Definitions

1.01 “Project” means the entire work effort necessary to complete the Work Plan, including all of Recipient’s obligations under this agreement.

1.02 “Work Plan” means the items of work identified in Exhibit A.

Section 2. Grant Amount, Match, Grant Period and Reimbursement Procedures

2.01 Maximum Grant Amount. The Council agrees to make available to Recipient during the grant period a grant of up to the Maximum Grant Amount. This amount is granted for reimbursing Recipient for a portion of the eligible costs of performing the Project.

The Council's obligations will not exceed the lesser of the following:

- A. The Maximum Grant Amount; or
- B. 50% of the total Project expenditures.

The Council is not responsible for cost overruns incurred by Recipient.

2.02 Recipient Match. Recipient must provide at least a 100% local match against the Maximum Grant Amount. If the final expenses for the Project exceed the Estimated Project Amount, Recipient is responsible for providing the funds to cover the final costs and expenses. The local match may be cash or an in-kind match.

2.03 Grant Period. The grant begins on the date that this Agreement is fully executed and expires on the earlier of January 31, 2022 or until Recipient satisfactorily fulfills all of its obligations this agreement except the final report required by Section 5.02. At the end of the Grant Period, all grant funds that Recipient has not spent revert to the Council. The Recipient may extend the length of the Grant Period up to twelve (12) months to collect sufficient rainfall data, if warranted. The written request for extension of the Grant Period must be received by the Council authorized representative three months before the end of the Grant Period. Any extension shall be pursuant to 6.05 of this grant agreement.

2.04 Retainage. The Council may retain up to 10% of the Maximum Grant Amount, payable upon receipt of the final report required by Section 5.02.

Section 3. Performance of the Project

3.01 Use of Funds. Recipient must use the funds for this grant only for eligible costs in Section 3.02.

3.02 Eligible Costs. Only the costs specified in this section are eligible for reimbursement out of the grant funds. Exhibit B to this Agreement provides the budget for the Project. Recipient may only use the grant funds to pay eligible line item costs in Exhibit B or for costs incurred in preparing the Work Plan in Exhibit A. If the actual cost of a line item in Exhibit B exceeds the budgeted amount by more than 10%, Recipient must notify the Council and Recipient may not use grant funds to pay for the portion that exceeds the budgeted amount by more than 10% without Council written approval.

Recipient may use grant and matching funds for direct staff and equipment costs for Work Plan activities. Recipient may use Grant and matching funds to purchase or lease equipment, machinery, supplies, or other personal property necessary for the grant project. Recipient will comply with the personal property management requirements in Section 3.04 of this agreement.

If the Council determines that Recipient made an unauthorized or undocumented use of grant funds, the Council may demand repayment and Recipient must promptly repay such amounts to the Council.

3.03 Administration, Supervision, Contractors, and MCUB. Recipient is responsible for the administration, supervision, management, and oversight of the Project. Recipient may employ any professional services and contractors it deems reasonable and necessary to complete the Project.

In employing professional services and contractors, the Council strongly encourages Recipient to solicit and include businesses that participate in the Metropolitan Council Underutilized Business Program (“MCUB”). A list of these firms is available on the Council’s website.

3.04 Personal Property Management. Title to all personal property acquired with grant and matching funds remains with Recipient. Recipient must take reasonable measures to protect and defend its title interest and must keep the personal property free and clear of any liens, encumbrances, or other claims. Recipient must maintain property records that include, at a minimum, a description of the property, a serial or other identification number, the acquisition date and cost, and the location, use, and condition of the property. In the final report required by section 5.02, Recipient must

include a list of all personal property acquired with grant and matching funds that was not used in performance of the Project. At the end of the Grant Period, Recipient agrees to transfer title to all personal property that is not incorporated into the Project and was acquired in whole or in part with grant funds to the Council, at the Council's option, at no charge. The Council reserves the right to direct appropriate disposition of all personal property not used for the grant project which were acquired in whole or in part with grant funds.

During the Grant Period, Recipient bears the risk of loss of, damage to, or destruction of any personal property acquired with grant or matching funds. No such loss, damage, or destruction will relieve Recipient of its obligations under this agreement. Recipient will maintain personal property acquired with grant or matching funds in good operating order. If, during the Grant Period, any project personal property is not used in performing the project, whether by planned withdrawal, misuse, or casualty loss, Recipient must immediately notify the Council's Authorized Representative. Unless otherwise approved by the Council's Authorized Representative, Recipient must remit to the Council a proportional amount of the fair market value of any items that are not used, calculated on the basis of the proportion of Council grant funds used to acquire the items.

3.05 Educational Signs. Recipient will ensure that the completed project includes educational signs that mention the Council's contribution to the Project.

Section 4. Accounting, Record, and Audit Requirements

4.01 Accounting and Record-keeping. Recipient will establish and maintain a separate account for the Project and maintain accurate and complete books, records, documents, and other evidence of the costs and expenses of implementing this agreement in detail that accurately reflects the total cost of the Project and all net costs, direct and indirect, of labor, materials, equipment, supplies, services, and other costs and expenses. Recipient must use generally accepted accounting principles. Recipient must retain these records for at least 6 years after the end of the Grant Period.

4.02 Audit. Individuals designated or authorized by the Council may audit the accounts and records of Recipient related to this agreement in the same manner as other accounts and records of Recipient. The Council may conduct such audit and inspection on Recipient's premises or otherwise at any time following reasonable notification during the Grant Period and for a period of six years thereafter. Under Minnesota Statutes section 16C.05, subdivision 5,

Recipient'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 6 years from the end of this agreement. Recipient will make available at all reasonable times and before and during the period of records retention proper facilities for examination and audit.

Section 5. Reimbursement, Reporting and Monitoring

5.01 Reimbursement Request/Quarterly Progress Reports. To receive Reimbursement under this agreement, Recipient must submit a Reimbursement Request/Quarterly Report to the Council. The Council must receive the Report within 30 days after the end of each calendar quarter. In the Report, Recipient must provide a detailed summary of completed work activities and project expenditures, including a comparison of actual activities and expenditures against planned activities and projected expenditures, and MCUB inclusion efforts under Section 3.03. Recipient must provide sufficient documentation of grant eligible expenditures and any other information the Council's staff reasonably requests. Recipient must submit a Quarterly Report as outlined in this section even if Recipient is not submitting a Reimbursement Request.

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 a waiver by the Council of any Recipient noncompliance with this agreement.

The Council will reimburse all eligible grant expenditures not in excess of the total amount of grant amount under this agreement within 60 days after receiving satisfactory documentation from Recipient. Recipient's documentation is subject to review and acceptance or rejection by the Council. The Council will be deemed to have accepted Recipient's documentation if the Council does not reject it in writing within 21 days of receipt.

The Council will not reimburse recipient for work done outside of the Grant Period.

5.02 Final Report. Within 60 days after the expiration of the Grant Period, the Council must receive from Recipient for Council review and approval a final report in a format determined by the Council, detailing total Project receipts and expenditures, summarizing all Project activity, describing MCUB inclusion efforts under Section 3.03, and containing a certification by Recipient's chief financial officer that all grant funds were expended in

accordance with this agreement. The final report must include a list of project personal property as required by paragraph 3.04. This Agreement remains in effect until the Council approves the Final Report.

5.03 Other Monitoring Activities. To assist the Council in monitoring compliance with the grant agreement, Recipient agrees to attend meetings as requested by Council staff and to permit site visits by Council staff, during business hours, upon reasonable notice.

Section 6. General Conditions

6.01 Compliance with Law. Recipient will comply with all applicable state and federal laws. Further, it is Recipient'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 Project.

6.02 Maximum Use of Other Funds. If Recipient at any time receives funding or reimbursement from another source for amounts charged by Recipient against this grant, Recipient must immediately refund the funds charged against this grant to the Council.

6.03 Liability. Each party is responsible for its own acts and the results thereof to the extent authorized by law. The Council and Recipient's liability are 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, Recipient will 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 attorney fees, arising out of or resulting from clean-up, removal, and disposal of contaminants related to the Project. This includes, without limitation, any claims asserted under 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 will not be constructed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which otherwise would exist between the Council and Recipient. Recipient's obligation to indemnify the Council is not a waiver on the part of either Recipient 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 Changes in the Project. If Recipient, 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 a portion of the Project, Recipient must submit to the Council a statement describing the situation and giving the reasons for Recipient's determination. Recipient 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 Council determines that Recipient's recommendations may be immediately approved, Recipient and the Council may execute a written amendment to this agreement as provided in section 6.05.

If the Council determines that Recipient's recommendations may not be immediately approved, Recipient and the Council may execute a written amendment to this agreement only after appropriate authorizations by the Council and Recipient.

The Council has the sole authority to deny the Recipient's recommendations.

6.05 Amendments. The terms of this agreement may be changed by mutual agreement of the parties. Changes will be effective only upon execution of a written amendment signed by both parties.

6.06 Equal Opportunity; Affirmative Action. Recipient will comply with all applicable laws, rules, and regulations relating to nondiscrimination and affirmative action in public purchase, involvement, and use. In particular, Recipient 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, Recipient must 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 funds.

6.07 Permits, Bonds, and Approvals. Recipient is responsible for obtaining and complying with all applicable local, state, and federal licenses, permits, bonds, approvals, inspections, and authorizations necessary for the Project.

6.08 Termination for Cause. This agreement may be terminated by the Council for cause at any time with 7 days' written notice to Recipient. Cause means a material breach of this agreement and any supplemental agreements or amendments to this agreement. If the Council terminates the agreement for cause, it may require Recipient to repay the grant funds in full or in a portion determined by the Council. Nothing in this section limits the Council's legal remedies to recover grant funds.

6.09 Termination for Convenience. Either party may terminate this grant agreement at any time by giving the other party written notice of termination at least 30 days before the effective date of the termination. On termination, the Council will compensate Recipient on a pro rata basis for work plan activities that were satisfactorily performed in accordance with this agreement.

6.10 Intellectual Property. Recipient agrees that the results of the grant project, the reports submitted, and any new information or technology that are developed with the assistance of this grant are in the public domain and may not be copyrighted, patented, trademarked or designated as trade secret.

6.11 Government Data Practices. Recipient 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 agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by Recipient under this agreement. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this clause by either Recipient or the Council. If Recipient receives a request to release the data referred to in this section, Recipient must promptly notify the Council.

6.12 Promotional Materials. Recipient will submit to the Council a copy of any promotional information regarding the grant project disseminated by Recipient during the Grant Period. Recipient will acknowledge the grant assistance made by the Council in any promotional materials, reports, and publications relating to the grant project.

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

6.14 Authorized Representatives.

The Council's Authorized Representative is:

Marcus Bush
Principal Engineer, Environmental Services

RECIPIENT'S Authorized Representative is:

[NAME]

[TITLE]

All written communication under this agreement must be sent electronically or by United States Mail to the Authorized Representative. Either party may change its Authorized Representative by notifying the other party in writing. When possible, communications between the parties concerning this agreement will be directed through the authorized representatives.

6.15 Survival. Sections. 4.01, 4.02, 6.03, 6.10, 6.12, and 6.13 of this Agreement, and the rights, duties and obligations of the Council and Recipient created in those Sections, survive termination or expiration of this Agreement.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized representatives on the dates below.

METROPOLITAN COUNCIL

By: _____
Weston Kooistra
Regional Administrator

Date: _____

RECIPIENT

The Recipient certifies that the appropriate persons have executed this agreement on behalf of the Recipient as required by applicable articles, bylaws, resolutions and ordinances.

By: _____

Date: _____

By: _____

Date: _____

EXHIBIT A
Work Plan

EXHIBIT B
Project Budget