

HUD SUSTAINABLE COMMUNITIES REGIONAL PLANNING GRANT PROGRAM

SUB-RECIPIENT: <i>City of Saint Paul</i>		GRANT NO. SG011-XXX
PROJECT: <i>Central Corridor: Stormwater & Green Infrastructure Planning</i>		
CONTACT PERSON(S): <i>Josh Williams</i>		
SUB-RECIPIENT GRANT AMOUNT: <i>\$370,000</i>		
LEVERAGED RESOURCES: <i>\$166,898</i>		
FEDERAL AWARD NO. MNRIP0023-10	CFDA NO. 14.703	
COUNCIL ACTION: <i>April 27, 2011</i>	EXPIRATION DATE: <i>January 31, 2014</i>	

SUB-RECIPIENT GRANT AGREEMENT

THIS SUB-RECIPIENT GRANT AGREEMENT (“Agreement”) is between the Metropolitan Council, a public corporation and political subdivision of the State of Minnesota (“Council”) and the entity identified above as “Sub-Recipient.”

WHEREAS, on behalf of a regional consortium the Council applied for and is the recipient of a \$5,000,000 Sustainable Communities Regional Planning Grant from the U.S. Department of Housing and Urban Development (“HUD”) to implement the federal government’s Partnership for Sustainable Communities initiative in the seven-county metropolitan area; and

WHEREAS, the Sub-Recipient’s proposed project was identified as a component of the work plan contained in the application submitted by the Council and the Sub-Recipient is a subgrantee of the Sustainable Communities Regional Planning Grant; and

WHEREAS, the \$5,000,000 Sustainable Communities Regional Planning Grant is subject to a Cooperative Agreement between HUD and the Council (“Cooperative Agreement”) that contains terms and conditions for HUD’s 2010 Notice of Funding Availability for HUD’s Sustainability Communities Regional Planning Grant Program; and

WHEREAS, the Cooperative Agreement states that each recipient and sub-recipient in a HUD Office of Sustainable Housing and Communities grant program consortium must enter into a memorandum of understanding that binds recipients and sub-recipients to the HUD award and that by doing so the entities legally bind themselves to comply with all the terms and conditions of the grant award; and

WHEREAS, at its April 27, 2011 meeting the governing body of the Metropolitan Council approved this Agreement and authorized its Regional Administrator to execute this Agreement on behalf of the Council.

NOW THEREFORE, in reliance on the above representations and in consideration of the mutual promises and covenants contained in this Agreement, the Sub-Recipient and the Council agree as follows:

HUD SUSTAINABLE COMMUNITIES REGIONAL PLANNING GRANT PROGRAM

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) **Cooperative Agreement.** “Cooperative Agreement” means the cooperative agreement between HUD and the Council through which the Council will receive the \$5,000,000 Sustainable Communities Regional Planning Grant from HUD. The Cooperative Agreement comprises the form HUD-1044, any special conditions, and the Cooperative Agreement Terms and Conditions. A copy of the Cooperative Agreement is attached to this Agreement as Attachment A.
- (b) **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 this Agreement was approved by the Council.
- (c) **Deliverable.** “Deliverable” means in-kind and leveraged resources and physical materials or products identified in the Sub-Recipient’s Work Plan or the outcomes that will result from the performance or implementation of the Sub-Recipient’s Work Plan.
- (d) **Work Plan.** “Work Plan” means the Sub-Recipient’s plan for addressing a specific service delivery need, and consists of designated work activities including tasks and subtasks; a timeline for completing the work; performance measures; outputs and outcomes identified to achieve the performance measures/goals; budget; and resources designated to complete the work. (Coop. Agreement, p. 5). A copy of the Sub-Recipient’s Work Plan is attached to this Agreement as Attachment B.

II. PROGRAM REQUIREMENTS

2.01 HUD Flow Down Provisions. The terms and conditions of the Cooperative Agreement between HUD and the Council flow down to all tiers of subgrantees. As a subgrantee, the Sub-Recipient must comply with all applicable requirements of the Cooperative Agreement and reporting provisions as set forth in the terms and conditions of the Cooperative Agreement or as established by HUD and the Office of Management and Budget. Selected provisions of the Cooperative Agreement are stated in summary fashion in this Agreement and referenced parenthetically for emphasis. Example: (Coop. Agreement, p. 5). However, consistent with the flow down requirements of the Cooperative Agreement, all applicable terms and conditions in the Cooperative Agreement apply in their entirety to this Agreement. The Sub-Recipient must obtain a DUNS number (or update its existing DUNS record) and register with the Central Contractor Registration (CCR; www.ccr.gov) no later than 120 days after the execution of the Cooperative Agreement. (Coop. Agreement, p. 19).

2.02 Allowable Costs. HUD will reimburse the Council for the costs of performing the Work Plan on a cost-reimbursement basis which HUD determines are allowable, allocable, and reasonable in accordance with applicable federal cost principals. Accordingly, grant funds will be disbursed to the Sub-Recipient on a cost-reimbursement basis consistent with applicable federal cost principles. (Coop. Agreement, pp. 5 & 6). If the Sub-Recipient incurs costs in excess of the Total Grant Amount or incurs costs that are not allowable costs, the excess shall be borne entirely by the Sub-Recipient. HUD has reserved the right to withhold five percent (5%) of the federal grant amount pending the

HUD SUSTAINABLE COMMUNITIES REGIONAL PLANNING GRANT PROGRAM

receipt and approval of a final progress report from the Council. (Coop. Agreement, pp. 6 & 7). Accordingly, the Council reserves the right to withhold five percent (5%) of the Sub-Recipient Grant Amount pending the receipt and approval of a final progress report. The grant funds may not be used for conducting interventions, remediation, rehabilitation or other activities that will physically alter any structure or property in any way. (Coop. Agreement, p. 7).

2.03 Sub-Recipient Grant Amount. The Council will make available to the Sub-Recipient the "Sub-Recipient Grant Amount" identified at Page 1 of this Agreement which shall be funded through the Sustainable Communities Regional Planning Grant awarded to the Council by HUD. Notwithstanding any other provision of this Agreement, the Sub-Recipient acknowledges and agrees that any reduction or termination of Sustainable Communities Regional Planning Grant funds made available to the Council, or any reduction or termination of the Leveraged Resources amount identified at Page 1 of this Agreement and required under Section 2.04 of this Agreement, may result in a like reduction in the Sub-Recipient Grant Amount made available to the Sub-Recipient.

2.04 Leveraged Resources Requirement. The Sub-Recipient must match the Sub-Recipient Grant Amount by not less than the Leveraged Resources amount stated at Page 1 of this Agreement. A reduction in the Leveraged Resources amount may result in a reduction in the Sub-Recipient Grant Amount made available to the Sub-Recipient. The Sub-Recipient must notify the Council at any time the Sub-Recipient believes it will not meet its Leveraged Resources requirement by the completion of this Agreement. The Council reserves the right to withhold payment of some or all of the Sub-Recipient Grant Amount if Leverage Resources are not spent. The following are not eligible to be counted as Leveraged Resources: the expenditure of any funds identified as Leveraged Resources if the expenditure occurred prior to February 1, 2011; and the cost of any work, services or in-kind support identified as Leveraged Resources that occurred or were provided prior to February 1, 2011.

2.05 Payments to Sub-Recipient. The Sub-Recipient's receipt of Sub-Recipient Grant Amount payments is dependent on the Council's receipt of grant funding from HUD according to the terms and conditions provided in the Cooperative Agreement. The Council will make payments to the Sub-Recipient within forty-five (45) calendar days after receipt of an approved reimbursement request from the Sub-Recipient or within five (5) business days after the Council receives reimbursement through HUD's Line of Credit Control System, whichever period of time is longer. The Sub-Recipient will submit reimbursement requests according to a schedule determined by the Council. The form and content of the written reimbursement request form will be determined by the Council.

2.06 Authorized Use of Grant Funds. The Sub-Recipient Grant Amount made available to the Sub-Recipient under this Agreement shall be used only for the purposes of implementing and performing the Work Plan. The Sub-Recipient is responsible for the complete and timely performance of the Work Plan. None of the work, services or activities covered by this Agreement may be subcontracted, assigned or otherwise transferred by the Sub-Recipient without the Council's prior written approval. Grant funds not used to implement and perform the Work Plan must be returned to the Council. HUD and the federal government reserve the right to seek recovery of any grant funds that are not expended in accordance with the requirements or conditions of this Agreement and the Cooperative Agreement. (Coop. Agreement, p. 19). The cost of any Work Plan work, services or activities incurred prior to February 1, 2011 is not an authorized use of the grant funds. (Coop. Agreement, p. 20). Except for allowable costs associated with closeout activities, the Sub-Recipient shall not incur costs or obligate grant funds for any purpose pertaining to the operation of the Work

HUD SUSTAINABLE COMMUNITIES REGIONAL PLANNING GRANT PROGRAM

Plan project or program, thirty (30) days prior to the end of the period of performance. (Coop. Agreement, p. 22).

2.07 Prohibited Use of Grant Funds. The Cooperative Agreement identifies ineligible activities for which the grant funds may not be used. (Coop. Agreement, p. 23). No increment above cost, fee, or profit may be paid to the Sub-Recipient under this Agreement. (Coop. Agreement, p. 23).

2.08 Work Plan Changes. The Sub-Recipient must promptly inform the Council's Project Manager in writing when any changes to the Work Plan are anticipated. All Work Plan changes are subject to prior approval by the Council's Project Manager and the HUD Government Technical Representative. (Coop. Agreement, p. 9).

2.09 Budget. The Sub-Recipient shall incur costs in conformance with the budget presented in its Work Plan. The Sub-Recipient shall not commingle funds computed under this Agreement with any other existing or future operating accounts held by the Sub-Recipient.

2.10 Interest Earnings and Program Income. Any grant funds advanced to the Sub-Recipient must be maintained in an interest bearing account. Any interest earned as a result of the advanced funds shall be promptly returned to the Council which in turn will be returned to HUD. (Coop. Agreement, pp. 16 & 17). Any program income, including royalties, must be used to support eligible activities. (Coop. Agreement, pp. 10 & 23).

2.11 Key Personnel. The Sub-Recipient will notify the Council if it intends to change its project manager or make changes to key personnel identified in the Work Plan. (Coop. Agreement, p. 22).

III. ACCOUNTING, AUDIT AND REPORT REQUIREMENTS

3.01 Accounting and Records. The Sub-Recipient 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 4.01 and 4.02, such accounts and records shall be kept by the Sub-Recipient and maintained for a period of six (6) years following the completion of the Work Plan activities described in Attachment A or six (6) years following the expenditure of the grant funds, whichever occurs earlier. For all expenditures of grant funds received pursuant to this Agreement, the Sub-Recipient will keep proper financial records and other appropriate documentation sufficient to evidence the nature and expenditure of the Leveraged Resources required under Section 2.04. Accounting methods shall be in accordance with generally accepted accounting principles.

3.02 Audits. The above accounts and records of the Sub-Recipient shall be audited in the same manner as all other accounts and records of the Sub-Recipient are audited and may be audited or inspected on the Sub-Recipient's premises or otherwise by HUD, the Comptroller of the United States, or any of their designees, and individuals or organizations designated and authorized by the Council at any time, following reasonable notification to the Sub-Recipient, 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 Sub-Recipient 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.

HUD SUSTAINABLE COMMUNITIES REGIONAL PLANNING GRANT PROGRAM

3.03 Biannual and Closeout Reporting Requirements. The Sub-Recipient will submit to the Council biannual progress reports on the Work Plan activities and the expenditures of the federal grant funds. The form and content of the report will be determined by the Council and HUD. The Sub-Recipient also will submit to the Council on a biannual basis a Standard Form 425, Federal Financial Report, detailing leveraged funds or in-kind contributions, a copy of which form is attached to this Agreement as Attachment C. The Standard Form 425 must be submitted to the Council no later than five (5) calendar days after the end of each biannual period so the Council can meet its biannual reporting requirements to HUD. As part of the closeout process the Sub-Recipient will submit to the Council a final narrative and a final Standard Form 425 detailing the progress made in achieving the purpose of this subgrant and adequate documentation of the total federal funds expended in support of the Work Plan activities to achieve this purpose. The final narrative and final Standard Form 425 are due to the Council fifteen (15) calendar days prior to the end of the period of performance. All Standard Form 425s should include the Catalog of Federal Domestic Assistance ("CFDA") number (**CFDA No. 14.703**) for the Sustainable Communities Regional Planning Grant Program and the Federal Award Number (**MNRIP0023-10**) for the HUD grant funding this Work Plan.

3.04 Closeout. To the extent applicable to the Sub-Recipient's Work Plan, the Sub-Recipient will provide the Council with the following closeout documentation fifteen (15) calendar days prior to the end of the performance period:

- (a) A Narrative Final Report summarizing Work Plan activities, including significant outcomes resulting from the activities and problems encountered during the performance period;
- (b) A Federal Financial Report (SF-425) of the total grant funds expended;
- (c) A completed Property Statement;
- (d) A completed Inventions, Patents, and Copyright Statement; and
- (e) A completed Closeout Certification.

Records must be kept in a safe place and be accessible to auditors, HUD, the Comptroller of the United States, or any of their designees, and individuals or organizations designated and authorized by the Council. (Coop. Agreement, pp. 9 & 10).

3.05 Federal Transparency Act. As required, the Sub-Recipient will directly provide "subaward" data to HUD, or otherwise will assist the Council in complying with the requirements of the Federal Funding Accountability and Transparency Act of 2006. (Coop. Agreement, pp. 11 & 12).

3.06 Single Audit Transparency Transactions. As required, the Sub-Recipient will assist the Council in meeting the requirements of the federal Uniform Administrative Requirements for Grants and Agreements, and other applicable federal reporting and audit requirements. (Coop. Agreement, p. 27). The Sub-Recipient will include on any Schedule of Expenditures of Federal Awards ("SEFA") the CFDA number (**CFDA No. 14.703**) for the Sustainable Communities Regional Planning Grant Program and the Federal Award Number (**MNRIP0023-10**) for the HUD grant funding this Work Plan.

HUD SUSTAINABLE COMMUNITIES REGIONAL PLANNING GRANT PROGRAM

IV. AGREEMENT TERM

4.01 Term and Period of Performance. This Agreement is effective upon execution of the Agreement by the Council. Unless terminated pursuant to Section 4.02, this Agreement expires on the Expiration Date identified at Page 1 of this Agreement. For the purposes of Sections 2.06, 3.03 and 3.04, the term "period of performance" means the project completion date stated in the Sub-Recipient's Work Plan. The period of performance may be a date earlier than the Expiration Date identified at Page 1.

4.02 Termination. This Agreement may be terminated by the Council for cause at any time upon fourteen (14) calendar days' written notice to the Sub-Recipient. 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 Sub-Recipient shall receive payment on a pro rata basis for eligible Work Plan activities described in Attachment A that have been completed prior to the termination. Termination of this Agreement does not alter the Council's or HUD's authority to recover grant funds on the basis of a later audit or other review, and does not alter the Sub-Recipient's obligation to return any grant funds due to the Council or HUD as a result of later audits or corrections.

4.03 Amendment. Subject to HUD approval, this Agreement may be amended by written agreement signed by authorized representatives of the Council and the Sub-Recipient. The period of performance (but not the Expiration Date) may be modified without a formal amendment by written approval of the Council's authorized representative.

V. GENERAL PROVISIONS

5.01 Environmental Review. Any Sub-Recipient Work Plan activities that involve site control or acquisition are subject to HUD environmental review under Title 24 Code of Federal Regulations Part 50. (Coop. Agreement, pp. 15 & 16).

5.02 Copyrights. HUD reserves a royalty-free, non-exclusive, an irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for federal government purposes: (a) the copyright in any work developed under this Agreement; and (b) any rights of copyright to which the Sub-Recipient purchases ownership with the grant funds. (Coop. Agreement, p. 13).

5.03 Data Collection and Confidentiality. The Sub-Recipient will comply with the applicable provisions of the Minnesota Government Data Practices Act (Minnesota Statutes chapter 13) as well as the applicable provisions of federal laws and HUD regulations governing the collection of data. (Coop. Agreement, p. 10). If the Sub-Recipient Work Plan includes services for "program beneficiaries," the Sub-Recipient must maintain confidential files on the program beneficiaries served. (Coop. Agreement, pp. 12 & 13).

5.04 Fair Housing and Civil Rights Laws. The Sub-Recipient represents, warrants, and certifies that it will comply with all applicable federal statutes, regulations, and requirements relating to non-discrimination and equal opportunity identified in HUD's regulations at Title 24 Code of Federal Regulations section 5.105(a). (Coop. Agreement, pp. 17 & 18).

5.05 Conflict of Interest. The members, officers and employees of the Sub-Recipient shall comply with all applicable state statutory and regulatory conflict of interest laws and provisions.

HUD SUSTAINABLE COMMUNITIES REGIONAL PLANNING GRANT PROGRAM

5.06 Liability. The Sub-Recipient and the Council shall be responsible for their own acts or omissions. Neither the Council nor the Sub-Recipient (to the extent applicable to the Sub-Recipient) waives any immunities or limits on liability provided by Minnesota Statutes chapter 466, or other applicable state or federal law.

5.07 HUD Involvement. HUD intends to have substantial involvement in the review, development, and approval of all aspects of the work plans and activities funded under the Cooperative Agreement, including the performance of the Sub-Recipient's Work Plan. (Coop. Agreement, p. 19).

5.08 Inspector General Referrals. The Sub-Recipient shall promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, contractor, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds. (Coop. Agreement, p. 20).

5.09 Limitations on Consultant Payments. The grant funds may not be used to pay or to provide reimbursement for payment of a consultant's salary during any one-year period at a rate more than the equivalent of General Schedule 15, Step 10 base pay. (Coop. Agreement, p. 20). As of the date of this Agreement, the annual salary limit for one individual consultant is \$129,000.

5.10 Limitation on Payments to Influence Certain Federal Transactions. No grant funds may be used to pay any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any "covered Federal actions." (Coop. Agreement, pp. 20 & 21).

5.11 Publications and New Releases. The results of the Work Plan may be made available to the public through dedication, assignment by HUD, or other means, as HUD shall determine. All interim and final reports and any other specified deliverables shall be owned by the federal government and held for the benefit of the public which shall include the Council and the Sub-Recipient. Sub-Recipient publications and news releases are subject to other HUD terms and conditions stated in the Cooperative Agreement. (Coop. Agreement, p. 24).

5.12 Contractors and Subcontractors. The Sub-Recipient shall include in any subgrant, contract or subcontract for Work Plan activities appropriate provisions to ensure subgrantee, contractor and subcontractor compliance with all applicable state and federal laws, this Agreement and the Cooperative Agreement.

5.13 Contact Persons and Project Managers. Allison Brummel is the Council's contact person and project manager for the purposes of administering this Agreement. Payment request forms, written reports and correspondence submitted to the Council pursuant to this Agreement shall be directed to:

Metropolitan Council
Allison Brummel, Project Manager
Sustainable Communities Regional Planning Grant
390 Robert Street North
Saint Paul, Minnesota 55101-1805
allison.brummel@metc.state.mn.us

HUD SUSTAINABLE COMMUNITIES REGIONAL PLANNING GRANT PROGRAM

651.602.1363

The Sub-Recipient's contact person(s) is identified at Page 1 of this Agreement. If the Sub-Recipient's contact person changes, the Sub-Recipient must notify the Council's project manager. Nothing in this Agreement will be deemed to authorize the Council's or the Sub-Recipient's contact persons or project managers to execute amendments to this Agreement on behalf of their respective organizations.

5.14 Non-Assignment. This Agreement is not assignable and shall not be assigned by the Sub-Recipient or the Council.

5.15 Attachments. The following Attachments are incorporated into and are made a part of this Agreement:

Attachment A - Cooperative Agreement provisions governing the \$5,000,000 Sustainable Communities Regional Planning Grant from HUD.

Attachment B - Sub-Recipient Work Plan.

Attachment C - Federal Financial Report - Standard Form 425.

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

IN WITNESS WHEREOF, the Sub-Recipient 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.

SUB-RECIPIENT

METROPOLITAN COUNCIL

By: _____

By: _____

Title: _____

Patrick P. Born
Regional Administrator

Date: _____

Date: _____

By: _____

Title: _____

Date: _____

HUD SUSTAINABLE COMMUNITIES REGIONAL PLANNING GRANT PROGRAM

SCRPGTEMPLATE

04/14/11