

## REIMBURSEMENT AGREEMENT

THIS REIMBURSEMENT AGREEMENT (the "Agreement"), dated this \_\_\_ day of \_\_\_\_\_, 2022, is between the Bassett Creek Watershed Management Commission, a Minnesota joint powers organization (the "Commission"), and the City of Minneapolis, a Minnesota home rule charter city (the "City"). The Commission and the City may be referred to collectively herein as the "Parties."

### RECITALS

WHEREAS, the Parties each share a common interest in ensuring the continued function, access, and operation of the underground Bassett Creek Tunnel (the "Tunnel"), which is located within the City, owned by the City, and subject to an easement agreement between the City and respective property owner ("Easement Agreement");

WHEREAS, the City received application for a private redevelopment project (the "Project") located over the Tunnel; and

WHEREAS, given the Parties' common interests in the Tunnel, the Commission's engineers have been actively involved in assisting with the Project review and reviewing and commenting on the including assistance with an amendment to the Easement Agreement ("Services"); and results thereof,

WHEREAS, in exchange for the Commission's engineer's involvement with said Project review, the City wishes to reimburse the Commission for half the cost of the Commission engineer's Services, all in accordance with the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the performance by the Parties of the terms herein and for other good and valuable consideration, the Commission and the City hereby covenant and agree as follows:

### AGREEMENT

1. Commission's Procurement of Services. The Commission hereby agrees to engage their engineer to provide the Services previously described herein. The Commission agrees to limit its engineer's fees for the Services that are subject to reimbursement herein to \$30,000. The Commission shall be solely responsible for making full payments to its engineer in accordance with that separate agreement between the Commission and its engineer, and said payments shall be subject to fifty percent (50%) reimbursement by the City as provided for in Sections 3 and 4 of this Agreement.

2. Deliverables to City. The Commission agrees to provide the City with a copy of any deliverables and data provided by its engineer related to the Services and requested by the City upon completion and finalization of said deliverables. For the sake of clarification, the Services generally include technical review and comments related to the Project and no specific deliverables are contemplated. The Commission will also provide the City with an opportunity to

make reasonable follow-up inquiries related to the engineer's findings and conclusions so as to aid in the City's ability to interpret, utilize and rely upon information derived from the Services.

3. Reimbursement for the Commission Engineer's Services. The City agrees to reimburse the Commission for the Services upon completion of the conditions set forth in Section 2 of this Agreement, and within 30 days of reimbursement requests submitted to the City by the Commission. At the City's request, the Commission shall provide copies of paid invoices as evidence of said fees for said Services.

4. Fee Limit. Notwithstanding any other provision to the contrary, the City's total responsibility for reimbursement of any and all fees under this Agreement shall not exceed \$15,000.

5. Term of Agreement. This Agreement shall commence on the date of execution by both Parties and it shall remain in full force and effect until the completion of the Services and all reimbursement required herein is made by the City, at which point the Agreement shall immediately terminate. Notwithstanding the foregoing, the Parties agree that Services subject to reimbursement pursuant to this Agreement commenced in September of 2021, prior to the execution of this Agreement.

6. Entire Agreement. This Agreement contains the complete agreement between the Parties and supersedes any previous oral agreements, representations and negotiations between the Parties regarding the subject matters of this Agreement. The Parties agree that there are no representations, warranties, collateral agreements or conditions affecting this Agreement except for those that are expressly provided herein.

7. Assignment. Neither party shall assign this Agreement without the written consent of the other party.

8. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their permitted successors and assigns.

9. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Minnesota.

10. Data Practices. Any and all data created, collected, received, stored, used, maintained, or disseminated to either party pursuant to this Agreement shall be administered in accordance with, and is subject to the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13.

11. Counterparts. This Agreement may be executed in more than one counterpart, each of which shall be deemed to be an original but all of which taken together shall be deemed a single instrument.

12. Severability. In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue

to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.

13. Waiver. The waiver by either party of a breach, default, delay or omission of any of the provisions of this Agreement by the other party will not be construed as a waiver of any subsequent breach of the same or other provisions.

14. Incorporation of Recitals. The Recitals set forth in the preamble to this Agreement are incorporated into this Agreement as if fully set forth herein.

**IN WITNESS WHEREOF** the Parties have duly affixed their signatures under hand and seal on this \_\_\_ day of \_\_\_\_\_, 2022.

**THE COMMISSION:**

**By:**

**Chairperson Cesnik**

**By:**

**Secretary Harwell**

**FOR THE CITY OF MINNEAPOLIS:**

**Approved as to Form by:**

**Signature:**

**Assistant City Attorney**

**Signature:**

**Department Head (or Designee) Authorized to Sign this Contract and/or Responsible for Administering and Monitoring Contract**

**Signature:**

**Finance Officer or Designee/Purchasing Agent**