

**AGREEMENT  
BETWEEN THE STATE OF MINNESOTA  
AND (RECIPIENT NAME)**

THIS AGREEMENT is made between the State of Minnesota, acting by and through its Commissioner of (state agency name) (hereinafter the "State"); and the (recipient organization name) (hereinafter the "Recipient").

WHEREAS, the Recipient has proposed (name of project),

WHEREAS, Minnesota Statutes 116P.05 establishes the Legislative Commission on Minnesota Resources (hereinafter "LCMR") and provides the LCMR with the authority to oversee the expenditures from the Environment and Natural Resources Trust Fund, and

WHEREAS, The Minnesota Legislature by Minnesota Laws 2005, Chapter \_\_\_\_\_, Article \_\_\_\_\_, Section \_\_\_\_\_, Subdivision (appropriation number) appropriated \$ (appropriation amount) to the Commissioner of (state agency name) for:

(Project number and name)

(Appropriation amount) is from the Minnesota Environment and Natural Resources Trust Fund to the commissioner of (state agency) for an agreement with (project manager/organization) to (actual appropriation language).

NOW THEREFORE, it is agreed between the State and the Recipient as follows:

**1. GENERAL CONDITIONS**

- 1.1** The State awards to the Recipient up to \$ \_\_\_\_\_ for (project name) (hereinafter the "Project"). The State will award the Recipient a maximum of \$ \_\_\_\_\_ in FY06 upon completion of agreed upon deliverables in the Work Program. An additional \$ \_\_\_\_\_ is available in FY 07. The Recipient will not be awarded more than \$ \_\_\_\_\_ in FY06 and FY 07. Funds unspent in any appropriation year are available for expenditure until the appropriation expiration date. The Recipient will be reimbursed by the State upon the completion of deliverables that satisfy the Work Program, and presentation of required documentation of related expenditures.
- 1.2** The Recipient acknowledges that these funds are proceeds from the State of Minnesota Environment and Natural Resources Trust Fund (hereinafter the "Trust Fund"), which is subject to certain legal restrictions and requirements, including Minnesota Statutes Chapter 116P. The Recipient is responsible for compliance with this and all other relevant state and federal laws and regulations promulgated pursuant thereto governing the proceeds of the Minnesota Environment and Natural Resources Trust Fund in the fulfillment of the Project.

**1.3** All services provided by the Recipient pursuant to this Agreement shall be performed to the satisfaction of the State, as determined at the sole discretion of its Authorized Representative, and in accord with all applicable federal, state, and local laws, ordinances, rules and regulations. The Recipient shall not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state or local law, ordinance, rule or regulation.

## **1.4 CONTACT PERSONS**

The authorized contact person for the State is:

*(contact person's name)*  
*(state agency's name)*  
*(state agency's full address)*  
*(telephone number)*  
*(fax number)*  
*(e-mail address)*

The authorized agent for the Recipient is:

*(agent name)*  
*(organization's name)*  
*(organization's full address)*  
*(telephone number)*  
*(fax number)*  
*(e-mail address)*

The acting fiscal agent for the Recipient is (if applicable):

*(fiscal agent's name)*  
*(organization's name)*  
*(organization's full address)*  
*(telephone number)*  
*(fax number)*  
*(e-mail address)*

## **2.0 PROJECT**

### **2.1 DESCRIPTION OF PROJECT**

An appropriation to the Commissioner of *(state agency name)* for *(project name)*:  
\$ *(appropriation amount)* is from the Minnesota Environment and Natural Resources Trust Fund to the commissioner of *(state agency)* for an agreement with the *(recipient name/organization)* to:

*(Insert actual appropriation language.)*

## **2.2 PROJECT SPECIFICATIONS**

The Project shall have a Work Program approved by the LCMR (or its successor) that is attached as Exhibit A and made part of this agreement. This Work Program describes the work to be completed by the Recipient, the specific products that will be produced along with the date by which they will be delivered, an estimate of the cost, including any training or other special costs associated with each product, and limits to reimbursements by budget category. All material changes to the Work Program must be approved by the LCMR and will be made part of this agreement by reference. The Recipient shall complete the Project as described in the approved Work Program and its amendments. The State has relied on the Recipient's estimate of the total funds required to complete the Project. If the State funds prove insufficient to complete the Project, the Recipient agrees to supply additional funds as needed. All deliverables and evidence that the deliverables have been satisfactorily completed by date due are to be in the LCMR office by **June 30, 2007 or 2008** (*Consult appropriation language to verify date.*), or as specified in the approved Work Program, which ever is earlier.

The State and the LCMR may require the Recipient to supply additional specifications about the project including site plans, building specifications, research methodology and detailed work schedules. These additional specifications are subject to approval by the State. After completion of the Project, the Recipient shall certify to the State that the Project, as conducted, conforms to these approved specifications.

## **2.3 ADMINISTRATION AND SUPERVISION**

The Recipient shall be responsible for the administration, supervision, management, record keeping and Project oversight required for the work performed under this agreement.

A reimbursement manual has been developed to instruct Recipients and staff regarding record keeping requirements and elements necessary to obtain reimbursement for direct Project activity costs. A copy of the manual is available from the state contact person.

## **2.4 OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS AND MATERIALS (Minn. Stat. 116P.10)**

In accordance with Minnesota Statutes Chapter 116P.10, all rights, title, and interest to all intellectual property rights, including patents, copyrights, services and trade marks, in all materials conceived or originated by the Recipient either individually or jointly with others, which arise out of the performance of this agreement, are jointly owned by the Recipient and the State of Minnesota Environment and Natural Resources Trust Fund (hereinafter "the Trust Fund"). The Trust Fund's ownership shall equal the percentage of the total Project cost paid for by the Trust Fund under this appropriation. The Recipient's contribution must be for actual and direct costs for the Project. All Recipient's contributions must be approved in advance by LCMR to be eligible to qualify as the Recipient's contribution to the total Project costs for delivery ownership and regular percentages. This ownership interest shall not be reduced by any reimbursements to the Trust Fund made by the Recipient sales of products or royalty payments requirements. Any report, study, computer software, data base, model, invention, photograph,

negative, audio or video recording, or other item or document, in whatever form, created or prepared by the Recipient in the performance of its obligations under this Agreement are the exclusive property of the Recipient of the appropriation and the Trust Fund except where stated otherwise in this agreement. The Recipient of the appropriation, at the request of the LCMR, shall execute any necessary documents needed to transfer ownership rights to the LCMR on behalf of the Trust Fund.

Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time, actually or constructively reduced to practice by the Recipient or its employees in the course of or in connection with this appropriation, the Recipient shall immediately give the LCMR written notice thereof, and shall promptly furnish the LCMR with complete information thereon. The LCMR and the Recipient have the sole right to determine whether or not and where a patent application shall be filed.

The Recipient and the LCMR reserve the right to use for their own purposes any intellectual property right produced as the result of the Project without payment to the other party. The party using said product shall protect the intellectual property rights to the product and advise the other party of its use.

The LCMR reserves "march-in" rights which can be exercised if the Recipient fails to market or offer to market any product resulting from activities undertaken pursuant to this Agreement within three (3) years from the termination of this Agreement, notwithstanding the above provisions of this section. The Recipient shall, upon request of the LCMR, execute and provide the necessary documents for this purpose.

## **2.5 OWNERSHIP OF RESEARCH RESULTS**

If, within three (3) years of the termination of this agreement, the Recipient elects not to commercialize any product derived from the research conducted under this Project, the research materials shall be returned to the LCMR without cost and free and clear of any obligation to the Recipient.

The Recipient represents and warrants that the material produced under this Agreement does not and will not infringe upon the intellectual property rights of another, including patents, copyrights, trade secrets, trade and services marks and names. The Recipient will defend with the approval of the Attorney General's Office pursuant to Minnesota Statutes 2005, Chapter 8.06 and indemnify the Trust Fund and/or the State at the Recipient's expense in any claims or actions brought against the Trust Fund and/or the State to the extent that it is based on a claim or action that all or part of the material infringes upon the intellectual property rights of another. The Recipient is responsible for obtaining any necessary licenses to use the intellectual property rights of another.

## **2.6 SALE OR LICENSE OF PRODUCTS**

The Recipient agrees to reimburse the Trust Fund revenues it receives from licenses, transfers, or other income generated from products based upon materials derived from this Project up to the amount of money provided under this appropriation unless expressly approved under the work program. Such reimbursement will be made by the Recipient upon first sale of any product worldwide whether or not such products are patentable.

The Recipient agrees that if revenue is generated from putting on workshops, conferences, etc. under this Project, eligible project expenses will be offset with this revenue and reimbursement will not be requested for expenditures covered by this revenue.

## **2.7 ROYALTY PAYMENTS**

The Trust Fund owns and shall take title to the percentage of a royalty, copyright or patent resulting from this Project equal to the percentage of the project's total funding provided by this appropriation subject to the provisions of Minnesota Statutes Chapter 116P.10. Cash receipts resulting from royalties from the licensing of copyright, patent, or other intellectual properties shall be paid to the Trust Fund on a quarterly basis within thirty (30) days after the end of each calendar quarter. The Recipient shall not license the intellectual property rights without the express written agreement of the LCMR.

## **2.8 ACKNOWLEDGMENTS**

The Recipient agrees to acknowledge the Trust Fund's financial support for this Project. Any statement, press release, bid, solicitation, or other document issued describing the Project shall provide information on the amount and proportion of Trust Fund money supporting the total cost of the Project and will contain the following language:

Funding for this project was recommended by the Legislative Commission on Minnesota Resources from the Minnesota Environment and Natural Resources Trust Fund.

Any site developed or improved by this Project shall display a sign, in a form approved by the LCMR, stating that the site has received funding from the Minnesota Environment and Natural Resources Trust Fund.

## **2.9 REPORTS**

The Recipient shall submit periodic Work Program status reports to the LCMR in a form prescribed by the LCMR on or before the reporting dates stated in the Work Program.

## **2.10 PURCHASE OF RECYCLED AND RECYCLABLE MATERIALS**

The Recipient shall use this appropriation in compliance with Minnesota Statutes Chapter 16B.121 and 16B.122 requiring the purchase of recycled, repairable, and durable materials, the purchase of uncoated paper stock, and the use of soy-based ink, the same as if it were a state agency. The Recipient shall ensure that all sub-recipients comply with this requirement.

## **2.11 PUBLICATIONS**

Researchers engaged in this Project are encouraged to present at symposia, national or regional professional meetings, and to publish methods and results of the project in journals, theses or dissertations or otherwise of their own choosing provided necessary steps have been taken to protect the patents, copyrights, and other intellectual property rights resulting from the Project. Research results must include an acknowledgment statement as provided in the Section entitled "Acknowledgements".

The Recipient shall provide advance notification to the LCMR two weeks before publicizing any data or information derived from the Project in a press release, publication, or presentation. A copy of any publication(s) produced by this project must be submitted to the LCMR.

## **2.12 FAILURE TO COMPLETE PROJECT**

Final reimbursements will not be awarded under this Agreement unless the Recipient has completed the Project in accordance with the approved Work Program and a final report has been submitted to and accepted by LCMR.

## **2.13 SUBCONTRACTORS**

The Recipient agrees that if they subcontract any portion of this Project over \$2,500 to another entity that the agreement with the subcontractor will contain all provisions of the approved LCMR Agreement in its entirety. Copyrights, patents, services, and trademarks will be protected and owned by the same percentage as if the Recipient had obtained the intellectual rights. This limitation does not apply to services, supplies and materials that are purchased from vendors. A sample subcontractor agreement is available on the LCMR website at <http://www.lcmr.leg.mn>.

## **2.14 ENERGY CONSERVATION**

Any capital improvements made under this Project shall comply with the applicable energy conservation standards contained in law, including Minnesota Statutes Chapter 216C.19 and 216C.20 and rules adopted there under. The Recipient may use the energy planning, advocacy, and state energy office units of the Department of Commerce to obtain information and technical assistance on energy conservation and alternative energy development relating to the planning and construction of the capital improvement project.

## **2.15 ACCESSIBILITY**

Any new structures built under this Project must be shown to meet the design standards in the Americans with Disabilities Act Accessibility Guidelines. Nonstructural facilities such as trails, campgrounds, picnic areas, parking, play areas, water sources, and the access routes to these features should be shown to be designed using guidelines in the Recommendations for Accessibility Guidelines: Recreational Facilities and Outdoor Developed Areas.

Copies of accessibility guidelines can be ordered from the U.S. Access Board at (202) 272-0080 or (800) 872-2253, or downloaded off their website at <http://www.access-board.gov>.

## **2.16 DATA COMPATIBILITY**

All data collected by this appropriation that have value for planning and management of natural resources, emergency preparedness, and infrastructure investments must conform to the enterprise information architecture developed by the office of technology. Spatial data must conform to geographic information subsystem guidelines and standards outlined in that architecture and adopted by the Minnesota geographic data clearinghouse at the land management information center. A description of these data must be made available on-line through the clearinghouse, and the data themselves must be

accessible and free to the public unless made private under the Data Practices Act, Minnesota Statutes, chapter 13.

To the extent practicable, summary data and results of projects funded by this appropriation should be readily accessible on the Internet.

As part of the project expenditures, recipients of land acquisition appropriations must provide the information necessary to update recreation information maps to the department of natural resources in the form specified by the department.

#### **2.17 LAND ACQUISITION AND REPORTING PROCEDURES**

The Recipient shall comply with Minnesota Statutes 2005, Chapter 116P.15 and 116P.16 regarding Land Acquisition and Reporting. See Exhibit F of this agreement for Land Acquisition and Reporting Procedures.

#### **2.18 NATIVE PLANT SPECIES**

Vegetation planted must be native to Minnesota and preferably of the local ecotype unless the work program approved by the commission expressly allows the planting of species that are not native to Minnesota.

#### **2.19 BRIDGES**

Bridges that are constructed with appropriations from the Trust Fund must be made out of iron, concrete, or wood.

#### **2.20 OTHER CONDITIONS**

It is a condition of acceptance of the appropriation that any agency or entity receiving the appropriation must comply with Minnesota Statutes, Chapter 116P.

#### **2.21 SURVIVAL OF TERMS**

The following clauses survive the cancellation or expiration of this agreement: Clauses 2.4, 2.5, 2.6, 2.7, 2.8, 2.11, 2.17, 7 and 10.

### **3. USE OF FUNDS**

The Recipient shall use the proceeds of this agreement only for the eligible costs of the Project as described in the approved Work Program.

### **4. MATCHING FUNDS**

The Recipient is not required to provide matching funds for this Project unless specified in the appropriation language.

**OR**

(Insert appropriation language from the law that describes the required match.)

If match is required, qualifying reimbursements are contingent upon approval by LCMR *and evidence of qualified match expenditure OR eligible expenditures will be reimbursed in the ratio of State funds to the sum of State Funds, plus the required match. (Consult with LCMR staff for the appropriate method.)*

## 5. COSTS

### 5.1 ELIGIBLE COSTS

Eligible costs are those costs directly incurred through Project activities that are solely related to and necessary for producing the work products described in the approved Work Program during the appropriation period. All dollars are awarded on a reimbursement basis, unless specifically authorized.

Eligible costs may include the following and are eligible only if specified in the approved Attachment A of the Work Program. Eligible costs must be documented as specified in the reimbursement manual available from the authorized contact person for the State:

- 5.1.1 Expenditures incurred only after the effective date of the approved Work Program. No expenditures will be allowed after **June 30, 2007 or 2008** unless otherwise specified in law;
- 5.1.2 Capital expenditures for facilities, equipment and other capital assets as expressly approved in the Work Program. For expenditures greater than \$3,500, the Recipient must include in the Work Program an explanation as to how all the equipment purchased with the appropriation will continue to be used for the same program through its useful life, or, if the use changes, a commitment to pay back to the Environment and Natural Resources Trust Fund an amount equal to either the cash value received or a residual value approved by the director of the LCMR if it is not sold;
- 5.1.3 Computer, if unique to the project and specifically approved in the work program;
- 5.1.4 Materials and supplies and incoming freight charges for them;
- 5.1.5 Publication and printing costs (including the process of composition, plate-making, press work, and binding and the end products produced) necessary for contract administration; work products production; and biennial reports relating to work program accomplishments;
- 5.1.6 Transportation and travel expenses such as lodging, meals, and mileage of personnel involved in the Project in the same manner and in no greater amount than provided for in the current "Commissioner's Plan" in force at the time of the expenditure and promulgated by the Commissioner of Employee Relations found at <http://www.doer.state.mn.us/lab-rel/pdfs/0305/commissioners%20plan%202003-5.pdf> (select Chapter 15 Expense Reimbursement) and as provided by LCMR

**OR**

for University of Minnesota (U of M) projects, the University of Minnesota plan found at <http://www.fpd.finop.umn.edu/groups/ppd/documents/policy/travel.cfm>.

Allowable meal and lodging expenses are for employees only. Purchasing meals for others is not an allowable expense. All out of state travel must be explicitly approved in the Work Program;

- 5.1.7** Wages and expenses of salaried Recipient employees if specified and documented in the Work Program. For State Agencies: use of unclassified staff only OR request approval for the use of classified staff accompanied by an explanation of how the agency will backfill that part of the classified staff salary proposed to be paid for with this appropriation. This is subject to specific discussion and approval by LCMR;
- 5.1.8** Fringe benefit costs limited to salary, FICA/Medicare, retirement, and health insurance of Recipient's employees if specified in the Work Program;
- 5.1.9** Professional services specified in the approved Work Program that are rendered by individuals or organizations not a part of the Recipient;
- 5.1.10** Eligible expenditures incurred after the effective date of the approved Work Program and before the effective date of their Agreement.

## **5.2 NONELIGIBLE COSTS**

Non-eligible costs for reimbursement means all costs not defined as eligible costs, including but not limited to the following:

- 5.2.0** Any costs incurred before the project is authorized, July 1, 2005 or Work Program approval, whichever is later;
- 5.2.1** Fund raising;
- 5.2.2** Taxes, except sales tax on goods and services;
- 5.2.3** Insurance, except title insurance;
- 5.2.4** Attorney fees; except for acquisition and clearing title to land;
- 5.2.5** Loans, grants, or subsidies to persons or entities for development;
- 5.2.6** Bad debts, late payment fees, finance charges or contingency funds, interest, investment management fees;
- 5.2.7** Lobbyists, political contributions;
- 5.2.8** Memberships (including subscriptions and dues);
- 5.2.9** Indirect costs (such as office maintenance, office utility costs, refreshments for staff, decorations, office materials and supplies);
- 5.2.10** Directors or officers salary;
- 5.2.11** Office rental fees (including storage space rental);
- 5.2.12** Publications and periodicals;
- 5.2.13** Merit awards and bonuses;
- 5.2.14** Employee worksite parking;
- 5.2.15** Entertainment, gifts and prizes, food and refreshments;
- 5.2.16** Communication costs incurred for telephone calls, postage, and similar services. Purchase of communication devices such as pagers, cell phones, personal data assistants (PDAs);
- 5.2.17** Computers (unless unique to the project and specifically approved in the work program).

## **6. REIMBURSEMENT PROCEDURES**

Please refer to the reimbursement manual that is available from the state contact person for detailed instructions on obtaining reimbursement and related records retention. To obtain reimbursement, the Recipient shall provide the State with a description of the result and evidence that related expenditures have been made. The State will make the final determination whether the expenditures are eligible for reimbursement under this agreement and verify the total amount requested.

The reimbursement request will include a summary of all eligible costs as listed in Attachment A - Budget Detail of the Work Program found in Exhibit A of this agreement. The summary will be in a spreadsheet titled "Reimbursement Request – Invoice Summary Spreadsheet" (Exhibit E). The reimbursement request must contain a completed and signed LCMR Pass Through Program Payment Request Form (Exhibit E), copies of original invoices and time records, the spreadsheet, plus proof of payment. In addition, the state contact person or the LCMR can designate additional financial records that must be included with the reimbursement request summary for the project expenses, certain agreements, or invoice copies.

All reimbursement request summaries for this project must be received by the State on or before **August 31, 2007 or 2008**, or as stated in the Work Program, whichever is earlier. No facsimiles will be accepted because the Payment Request Form requires an original signature. Requests received after this date will not be eligible for reimbursement. If the authorization for the project is extended, the agreement and appropriation may not be canceled until the new expiration date.

## **7. STATE AUDITS**

Under Minn. Stat. § 16C.05, subd. 5, the Recipient's books, records, documents, and accounting procedures and practices relevant to this agreement are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this agreement.

## **8. AFFIRMATIVE ACTION**

**8.1** For agreements in excess of \$100,000.00, the Recipient certifies that it is in compliance with Minn. Stat. 363A.36.

**8.2** If the Recipient has had more than 40 full-time employees within the State of Minnesota on a single working day during the previous 12 months in Minnesota or in the state where it has its' principle place of business, the Recipient must comply with the following Affirmative Action requirements for disabled workers:

(A) The Recipient must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Recipient agrees to take affirmative action to employ,

advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(B) The Recipient will comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

(C) In the event of the Recipient's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes Section 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

(D) The Recipient will post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the Recipient's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

(E) The Recipient must notify each labor union or representative of workers with which it has a collective bargaining agreement or other agreement understanding, that the Recipient is bound by the terms of Minnesota Statutes Section 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

**8.3 Consequences.** The consequences for the Recipient's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this agreement by the Commissioner or the State.

**8.4 Certification.** The Recipient hereby certifies that it is in compliance with the requirements of Minn. Stat. Sec. 363A.36 and Minn. R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

## **9. WORKERS COMPENSATION**

The Recipient certifies that it is in compliance with Minn. Stat. § 176.181, subd. 2, pertaining to workers' compensation insurance coverage. The Recipient's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the State's obligation or responsibility.

## **10. LIABILITY**

Each party agrees that it will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other party and the results thereof. The State's liability shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes Sec. 3.736, and other applicable law.

## **11. TERM**

### **11.1 EFFECTIVE DATE**

Costs may be incurred for this Agreement upon LCMR's approval of the Work Program or July 1, 2005, whichever is later, although no reimbursements will be made until this Agreement is fully executed. This Agreement shall become legally effective upon such date as it is executed by the Commissioner of (state agency) or July 1, 2005, whichever is later and shall remain in effect until **June 30, 2007 or 2008**, or until all obligations set forth in this Agreement have been satisfactorily fulfilled, whichever occurs first unless expressly extended in Minnesota session law.

### **11.2 TERMINATION**

This Agreement may be terminated by the State for cause at any time upon seven (7) days written notice to the Recipient. Cause shall mean a material breach of this Agreement and any supplemental agreements or amendments thereto.

This Agreement may also be terminated by the State in the event of a default by the Recipient or in the event that the Legislature rescinds the appropriation to this Project.

This Agreement may be terminated by the State or the Recipient at any time with or without cause upon thirty (30) days' written notice to the other party. In the event of such a cancellation, the Recipient shall be entitled to payment determined on a pro rata basis for work or services satisfactorily performed.

### **11.3 AMENDMENTS**

Amendments to this Agreement must be in writing and are with the mutual agreement of the State and the Recipient. Amendments must be consistent with the Work Program and its approved amendments.

### **11.4 WORK PROGRAM AMENDMENTS**

Any Amendments to the work program must be submitted in writing to and formally approved by the LCMR Director or Commission before they are effective. These will include changes in planned activities in the Results section of the Work Program or changes in budgeted line items.

## **12. ANTI-TRUST PROVISION**

The Recipient hereby assigns to the State of Minnesota any and all claims for overcharges as to goods and/or services provided in connection with the Agreement resulting from antitrust violations that arise under the antitrust laws of the United States and the antitrust laws of the State of Minnesota.

**13. CHOICE OF LAW**

All matters relating to the performance of this Agreement shall be controlled by and determined in accordance with the laws of the State of Minnesota. Venue for all legal proceedings out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

**14. GOVERNMENT DATA PRACTICES**

The Recipient and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State under this agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the 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 the Recipient or the State.

**15. AGREEMENT EXECUTION**

**STATE ENCUMBRANCE VERIFICATION**

Individual certifies that funds have been encumbered as Required by Minn. Stat. § 16A.15 and 16C.05.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_ Contract # \_\_\_\_\_

<b>ORGANIZATION NAME</b>
By:
Title:
Date:
A certified copy of the (Organization Name) Resolution unconditionally approving this Agreement is attached as Exhibit D.

STATE AGENCY NAME
By:
Title:
Date:

## **LIST OF EXHIBITS**

- A Work Program With LCMR Approval Letter**
- B Commissioner's Plan Travel Allowances**
- C Certification And Approval By Board Or Council**
- D Evidence of Compliance with Affirmative Action Statute [if applicable]**
- E Reimbursement Request Form and Invoice Summary Spreadsheet**
- F Land Acquisition and Reporting Procedures [if applicable]**

**Exhibit A**

**Work Program With LCMR Approval Letter**

**Exhibit B**

**Commissioner's Plan Travel Allowances**

## COMMISSIONER'S PLAN TRAVEL ALLOWANCES

Excerpt from the 2003-2005 Commissioner's Plan. Web site link for additional information:

<http://www.doer.state.mn.us/lab-rel/pdfs/0305/commissioners%20plan%202003-5.pdf> (Select Chapter 15 - Expense Reimbursement)

### Mileage:

Use of personal automobile \$ .405 – this rate is always the current Federal IRS mileage reimbursement rate

Use of personal van or van type vehicle \$ .50  
equipped with a ramp, lift, or other level  
changing device designed to provide  
wheelchair access.

Use of personal vehicles should include actual odometer readings as evidence of business related travel.

### Commercial Transportation:

Taxi, Rental car, airfare provided that no air transportation shall be by first class and all travel shall be for state purposes.

<u>Meals:</u>	<u>Normal Areas</u>	<u>Special Metropolitan Areas *</u>
Breakfast:	\$ 7.00	\$ 8.00
Lunch:	9.00	10.00
Dinner:	15.00	17.00

\*Special Metropolitan Areas include:

Atlanta	Hartford	Philadelphia
Baltimore	Houston	Portland, OR
Boston	Kansas City, KS	St. Louis
Chicago	Kansas City, MO	San Diego
Cleveland	Los Angeles	San Francisco
Dallas/Fort Worth	Miami	Seattle
Denver	New Orleans	Washington, DC
Detroit	New York City	

### Hotel & Motel Accommodations:

Charges must be reasonable & consistent with the facilities available & good judgement is used in incurring lodging costs.

Baggage Handling: Reasonable costs and gratuities are allowed.

Parking Fees / Tolls: Reasonable costs for the area are allowed.

Telephone Calls: Business related calls only. Proof of eligibility is required.

**Exhibit C**

**Certification And Approval By Board Or Council [if applicable]**

**Exhibit D**

**Evidence of Compliance with Affirmative Action Statute [if applicable]**

**Exhibit E**

**Reimbursement Request Form and Invoice Summary Spreadsheet**

## LCMR Pass Through Program Payment Request Form

Project Contract Number:	Recipient:	Project Name:
Request Number _____  Period for which funds are being requested:  From: ____/____/____ To: ____/____/____  Amount of Request \$ _____	I certify that I am the individual authorized to request funds; that all expenditures reported have been dispersed and are in accordance with the agreement, that all costs are exclusively for the results listed in the approved work program; and all original documentation is retained at our offices in the form of invoices, canceled checks, and signed time records. Copies of these documents are attached as documentation of payment.  <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Signature <span style="float: right;">Date</span>  <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Name <span style="float: right;">Title</span>  Phone Number: _____	
Remarks:		

### For Department Use Only

I have reviewed the documentation provided by the recipient for the goods, materials and/or services presented and they appear to be eligible for reimbursement under the work program.  Payment approved in the amount of \$ _____  By _____  Date _____	FY	Vendor Number (9)	
	Dept	Invoice # (20)	
	Contract #	Line #	Object #
	Payment Amount:		
	Transaction Date/No.	Dept. Auth. Signature	

Reminder: Please be sure to attach copies of invoices and evidence of payment as documentation for reimbursements.

# Reimbursement Request – Invoice Summary Spreadsheet

**Instructions:**

1. Enter your budget from your current approved work program (Attachment A)
2. Update the beginning balances with the ending balance from your previous Invoice Summary Spreadsheet.
3. Insert the amounts of your current invoice by category and provide the total.
4. Calculate the ending balances for this invoice.
5. Attach copies of invoices, checks and time cards.
6. Fill out and submit the Reimbursement Request Form
7. Send completed documentation to the authorized state contact person.

Project Title:

Legal Citation: Laws of Minnesota 2005, Chapter \_\_\_\_\_, Section \_\_\_\_\_, Subdivision \_\_\_\_\_.

Period Covered by Reimbursement Request: \_\_\_\_\_ TO \_\_\_\_\_ .

Budget for Results from Work Program

Budget Item	Result 1: (Insert Title of Result)				Result 2: (Insert Title of Result)				Result 3: (Insert Title of Result)				Project Total			
	Budget	Beginning Balance	Current Invoice	Ending Balance	Budget	Beginning Balance	Current Invoice	Ending Balance	Budget	Beginning Balance	Current Invoice	Ending Balance	Budget	Beginning Balance	Current Invoice	Ending Balance
Use information from Attachment A from Work Program																
Column Total																

**Exhibit F**

**Land Acquisition and Reporting Procedures [if applicable]**

## Exhibit F

### Land Acquisition and Reporting Procedures

The Recipient shall follow the following procedures when purchasing real property or an interest in real property with funds available under this Agreement, provided however that these procedures are not required in transactions where real property or an interest in real property is donated to the Recipient even though related expenses are eligible costs covered under this Agreement:

1. **Landowner Information:** The Recipient shall provide to each owner of an interest in real property proposed for purchase with funds available under this Agreement a letter covering the following information:
  - a. A description of the real property to be purchased;
  - b. A general description of the project for which the real property is sought;
  - c. The intended use of the real property by the Recipient, or another entity, if appropriate;
  - d. The process by which the real property will be valued or appraised, including an invitation for the landowner to walk the land with the appraiser;
  - e. The process by which the real property will be purchased;
  - f. A statement that the landowner will be provided with a summary of the documentation of value or appraisal prior to purchase;
  - g. The appropriate contact person for the Recipient.

The Recipient shall provide the landowner with a copy of the letter to sign and return acknowledging receipt of the letter from Recipient. The Recipient will draft its own letters including the above listed elements.

2. **Environmental Review:** The Recipient shall conduct an appropriate environmental review of the real property to determine whether the real property is used or has ever been used for the manufacture, use, storage, or disposal of any hazardous waste or toxic substance, pollutant or contaminants. For real property intended to be conveyed to the Department of Natural Resources (DNR), the Recipient shall consider using the DNR's initial assessment form to expedite the approval process.
3. **Appraisals:**
  - a. For all purchases where the Recipient intends to convey the real property or an interest in real property to DNR, the real property or interest in real property must be appraised and the appraisal then reviewed and certified by a DNR review appraiser.
  - b. For all purchases where the purchase price is more than \$20,000, the Recipient shall obtain an appraisal from an appraiser licensed according to the requirements of the laws of the State of Minnesota. In all other instances, where the Recipient is not intending to convey the real

property or interest in real property to DNR, the Recipient shall obtain appropriate documentation substantiating the purchase price.

- c. The Recipient shall provide the landowner with a summary of any required appraisal.
4. **Survey/Legal Description:** The Recipient shall determine if the real property or a part of the real property will need to be surveyed in order to create an acceptable, recordable legal description. If a survey is needed, the Recipient shall obtain a survey from a surveyor licensed according to the requirements of the laws of the State of Minnesota. If the Recipient intends to convey the real property or the interest in real property to DNR, it is advisable for the Recipient to provide DNR with a proposed legal description for the real property for review before an appraisal is completed. The Recipient shall also provide a copy of the survey to DNR for review before closing on the conveyance to DNR. Where the purchase price is based upon a per acre calculation, the Recipient should consider including a provision in the option or purchase agreement that in the event that the acreage changes by more than 1/2 of an acre due to the survey, the purchase price shall be adjusted based on the average per acre value.
5. **Title:** The Recipient shall obtain evidence that title to the real property or interest in real property is marketable and free and clear of any rights, restrictions or encumbrances that would interfere with the use for which the real property or interest in real property is being acquired. Where the Recipient intends to convey the real property or interest in real property to DNR, this shall include either an abstract of title or registered property abstract and an attorney's title opinion or a title commitment for an owner's policy of title insurance. DNR will not accept real property or an interest in real property until such time as it concludes that, in the opinion of the State, title is marketable.
6. **County Board Notification:** Prior to deciding whether to accept any interest in real property purchased under this Agreement, DNR shall discuss the acquisition with or, if needed, obtain the approval of the county board of the county in which the property is located.
7. **Relocation:** State law may require payment of relocation expenses for purchases of any residences or businesses on real property that will be conveyed to the DNR. Generally, the Recipient will seek to avoid acquisition of residences or businesses using funds under this Agreement. In unique circumstances, recipients may work with DNR to obtain from a landowner a waiver of relocation benefits.
8. **Forms:** The Recipient may use Recipient's own option, purchase agreement or other forms for acquisition. It is advisable for the Recipient to review these forms ahead of time with DNR for acquisitions of real property or interests in real property intended to be conveyed to DNR, to avoid terms in the form that may conflict with state policies.
9. **Required Deed Restriction:** A recipient of funding who acquires an interest in real property must separately record a notice of funding restrictions in the appropriate local government office where the conveyance of the interest in real property is filed. The notice of funding agreement must contain:

- (1) a legal description of the interest in real property covered by the funding agreement;
- (2) reference to the underlying funding agreement;
- (3) a reference to this section; and
- (4) the following statement:

"This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement or work program controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Legislative Commission on Minnesota Resources or its successor. If the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or work program, ownership of the interest in real property shall transfer to this state." If the recipient fails to comply with the terms requirement, ownership of the interest in real property transfers to the state. For the purposes of this statute, "interest in real property" includes, but is not limited to, an easement or fee title to property.

10. **Annual Reporting of the Status of the Property Purchased:** Minnesota Statutes 116P.16 require an annual verification to LCMR that purchase property remains in the use described in the Work Program for the project to which the state appropriated money. The responsibility for reporting under this statute may be transferred by the recipient of the appropriation to another person who holds the interest in the real property. To complete the transfer of reporting responsibility, the recipient of the appropriation must:

- (1) inform the person to whom the responsibility is transferred of that person's reporting responsibility;
- (2) inform the person to whom the responsibility is transferred of the property restrictions under section 116P.15; and
- (3) provide written notice to the commission of the transfer of reporting responsibility, including contact information for the person to whom the responsibility is transferred.

After the transfer, the person who holds the interest in the real property is responsible for reporting requirements under this statute.

11. **Conditions for Payments of Eligible Costs:** The Recipient may use funds available under this Agreement to cover any costs incurred in following the above land acquisition procedures and as otherwise set out in the Work Program attached as Exhibit A and the List of Deliverable Products

and Related Budget attached as Exhibit B subject to the following conditions:

- a. The Recipient will not be entitled to use funds available under this Agreement for any land value costs in excess of 110 percent of appraised value.
  - b. In those instances set out above where DNR review and approval of an appraisal, legal description, title work or environmental assessment is required, the Recipient assumes the risk that its costs will not be covered under this Agreement if the Recipient purchases the real property or interest in real property before receiving the required prior DNR certification or approval.
  - c. Eligible costs incurred in the purchase of real property or an interest in real property must be documented by:
    - 1) A copy of the letter containing landowner information signed by the seller.
    - 2) A copy of the environmental review document.
    - 3) A copy of any required appraisal or other documentation of value of the real property or interest in real property purchased.
    - 4) The legal description of the real property or interest in real property purchased and any required survey.
    - 5) Evidence of title as required above or as otherwise agreed to by the Attorney General.
    - 6) Evidence of the amount paid or to be paid for the real property or interest in real property.
    - 7) Evidence of successfully filing the deed restriction required by M.S. 2005, Chapter 116P.15, Subdivision 2(c).
    - 8) A copy of a notification to the LCMR of the final disposition of the property for reporting purposes defined in M.S. 2005, Chapter 116P.16.
12. **Payments to DNR:** The Recipient may use or direct funds available under this Agreement to cover costs incurred by DNR for appraisals, title review or other similar direct expenses related to DNR's acquisition of any interest in real property purchased by the Recipient under this Agreement. Recipient may not use funds available under this Agreement to cover these costs if assessed on the basis of a percentage of the fair market value of the interest in real property being acquired.