

**DRAFT
AGREEMENT**

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**BY AND BETWEEN THE CITY OF PEORIA
AND FRESH COAST CAPITAL, LLC**

AGREEMENT

THIS AGREEMENT (“Agreement”) is made as of the ____ day of 2017 (the “Commencement Date”), by and among the City of Peoria (“Peoria”), a municipal corporation pursuant to the laws of Illinois, and Fresh Coast Capital, LLC, a Delaware limited liability company (hereinafter “Fresh Coast”), whose address is 318 W. Adams Street, 16th Floor, Chicago, IL 60606.

Section 1: RECITALS

A. Fresh Coast is a mission-driven company with a track record of partnership with cities and neighborhood organizations creating productive uses of underutilized real estate that provide environmental, economic and social benefits. Fresh Coast seeks to develop projects that individually and collectively advance:

- i. *Shared Prosperity* - improve economic outcomes for residents, neighborhoods, local business and local government
- ii. *Environmental Restoration and Resiliency* - create improvements in water, soil, air and habitat quality while helping communities manage stormwater
- iii. *Strengthened Community* - increase pride and engagement among community members, both through microenterprise opportunities and improved quality of added outdoor green spaces

B. Peoria is a home-rule municipal corporation, under the laws of Illinois.

C. Fresh Coast has developed plans coordinating with the Peoria on green infrastructure projects supporting Peoria’s revitalization efforts and green stormwater infrastructure planning.

D. Fresh Coast was awarded a Natural Resources Conservation Service (“NRCS”) Conservation Innovation Grant (“CIG grant,” the “Grant”) to install absorptive plant and tree-based landscapes that also generate revenue and create community engagement opportunities. These may include stormwater tree farms and harvestable microenterprise (agriculture and/or native floriculture) rain gardens on vacant and/or right-of-way land.

E. Together, Peoria and Fresh Coast envision a thriving Peoria that embraces multi-benefit strategies for developing vacant, underutilized and right-of-way land.

F. Fresh Coast seeks to pursue a master partnership agreement with Peoria in the future to identify and develop land reuse strategies that advance the social, economic and environmental revitalization goals of Peoria.

G. The primary goals that Peoria and Fresh Coast intend to achieve with the implementation of this Agreement are to develop one or more pilot projects pursuant to the Grant which will provide guidelines for additional projects in the City and elsewhere. In addition, there may additional ancillary benefits from this Agreement such as:

- i. Address issues with blight and maximize the productivity of vacant and underutilized real estate;
- ii. Generate positive economic, environmental and social improvements for Peoria by developing productive land reuse projects;
- iii. Engage in regular dialogue with Peoria stakeholders to foster project alignment with Peoria's goals.

Section 2: AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises, mutual obligations of the parties hereto, and other valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties hereto agree as follows:

Section 1. Recital Incorporation

The recitals set forth above are incorporated into and made a part of this Agreement.

Section 2. Impact and Community Engagement

A. Grant-Specified Impact Goals. Fresh Coast will work with partners, including Peoria, to install absorptive plant and tree-based landscapes that also generate revenue and create community engagement opportunities. In particular, landscapes will include harvestable stormwater tree farms as well as rain gardens (with food crops and/or native floriculture) on vacant and right-of-way land to form a complete streetscape of “green fingers.” **Exhibit A** outlines the scope of work in greater detail.

B. Evaluation and Reporting. Fresh Coast will evaluate and report on the impacts generated by the pilot project(s). Impact reporting will be integrated into the narrative reports delivered to NRCS and provided to Peoria as described in **Exhibit A**. Evaluation methodologies will be developed by Fresh Coast pursuant to the USDA-NRCS CIG Agreement No. 69-3A75-17-21 and the applicable NRCS requirements in conjunction with Peoria.

C. Stakeholder Advisory Group. Fresh Coast and its team members will work with Peoria to identify community stakeholders to be consulted in an advisory capacity with the purpose of aligning projects with the goals and needs of the community and Peoria's priorities.

D. Community Meetings. Fresh Coast and its team members will share information and solicit community input on its goals, strategies and projects through community meetings that it either organizes or participates in.

E. Marketing. Fresh Coast and its team members will create marketing materials under the Grant requirements. Fresh Coast will share these materials with Peoria to route updates and documents through existing marketing channels for community outreach.

Section 3. Project Types and Maintenance

A. Fresh Coast is bound by the Grant as reflected in USDA-NRCS CIG Agreement No. 69-3A75-17-21, attached as **Exhibit B**. This Agreement specifically contemplates, and is intended to assist in the implementation of that Grant. Peoria will cooperate with Fresh Coast in its performance of such USDA Agreement and in the event of a conflict between this Agreement and the USDA Agreement, the terms of the USDA Agreement shall govern.

B. The Project to be implemented under this Agreement is a pilot green infrastructure program with integrated urban agriculture.

C. If, at the end of the Grant pilot term, Peoria would like to continue contracting with Fresh Coast for the ongoing maintenance of the site(s), a separate agreement may be negotiated between the parties.

Section 4. Identification of Proposed Peoria Property

A. Peoria and Fresh Coast will work cooperatively to identify and designate one or more parcels of real property owned by Peoria and areas of property over which Peoria has control (such as easements and rights of way) (collectively, the "Peoria Property") for Fresh Coast's project(s). Peoria has designated the property(s) listed in **Exhibit C** as the proposed Peoria Property under this Agreement. Additional properties have also been designated in Exhibit C by Peoria as a proposed Peoria Property hereunder. Peoria and Fresh Coast may, from time to time, update the list in Exhibit C by mutual agreement.

B. If the primary proposed Peoria Property is determined to be unsuitable by Fresh Coast as described herein, Fresh Coast may pick one or more additional Peoria Properties from the other properties listed in Exhibit C hereunder. If none of the properties listed in Exhibit C hereunder is determined to be suitable, Fresh Coast may either terminate this Agreement and neither party shall have any liability to the other hereunder or Fresh Coast and Peoria shall identify other parcels owned by or controlled by Peoria, provided that such real estate is:

1. Determined to be suitable for Fresh Coast's project(s) under the Grant as described herein;

2. Vacant of buildings occupied for residence, business or municipal purposes;
3. Rights-of-ways;
4. Drainage or other similar easements in favor of Peoria; or
5. Believed by Peoria to be unlikely for other redevelopment within the term of this Agreement that it deems a higher and better use than Fresh Coast Projects

Peoria and Fresh Coast will work cooperatively to identify those potential Peoria Property(s) to be evaluated and possibly used by Fresh Coast hereunder.

C. Designation of real estate as Peoria Property for purposes of this Agreement will not change, alter or affect the ownership or legal rights to control such real estate.

D. Additional parcels may be excluded at any time based on mutual approval by Peoria and Fresh Coast. Approval will not be unreasonably withheld.

E. Upon written approval by both parties, real property may be terminated and removed from the operation of this Agreement prior to the expiration of this Agreement.

F. Properties owned or controlled by persons other than Peoria shall only be designated as Peoria Property upon consent of the persons that own or control such property.

G. Liabilities in connection with Peoria property(ies) shall be determined based upon Section 8 of this Agreement.

Section 5. Right to Conduct Property Due Diligence

A. Peoria shall not offer for any purpose any parcel of real estate that meets the criteria specified in Section 4(B) to any other person, company or entity without first offering at the same terms such parcel of real estate to Fresh Coast hereunder. Fresh Coast shall respond to such offering within 14 calendar days or it will be considered a denial of the offer.

B. Simultaneously with the execution hereof and at all reasonable times hereafter, Peoria shall make available to Fresh Coast any of the following in Peoria's possession or control relating first to the proposed Peoria Property and then to the potential Peoria Property(s) as applicable:

1. Copies of all plans, historical maps or aerial photos of the proposed Peoria Property and then to the potential Peoria Property(s);
2. Copies of all written notices of any zoning, safety, building, fire, environmental, health code or other violations and not cured prior to the date hereof;

3. All available City GIS data files including: sewer system mapping; parcel and easement boundaries; aerial imagery; topography and/or other elevation data; and other utility mapping (water, gas, electric, telecommunications);
4. Copies of all legal documents relating to Peoria's ownership or control;
5. All information, including as-builts regarding the locations and design of structures, fixtures or equipment known to the City including storm and sanitary sewers in or near the potential project site;
6. Copies of all existing environmental reports and surveys, and geotechnical reports or soil boring logs either at the proposed or potential Peoria Property(s) or in the vicinity in Peoria's possession or control; and
7. all other non-confidential reports, data, financial data, operating data, contracts, leases, instruments, invoices and other writings which Fresh Coast may reasonably request.

C. While this Agreement remains in effect, during normal business hours and after 24 hours' prior advance notice, Peoria shall afford Fresh Coast and its representatives access to the proposed Peoria Property and, upon its rejection, the potential Peoria Property(s), including, but not limited to, the right to conduct environmental, soil and other tests and to inspect structural and physical condition of any improvements, the mechanical, plumbing and utility systems, together with all other aspects of the real estate (collectively the Pre-Development Activities). If Fresh Coast or its representatives enter upon such property(s) pursuant to the terms hereof, Fresh Coast shall restore the real estate to effectively the same condition that existed prior to Fresh Coast's entry. Peoria will review and approve within 5 business days any proposed geotechnical testing locations and topographic survey prior to Fresh Coast conducting such investigation or survey. Failure to respond timely shall be deemed approval hereunder.

D. Fresh Coast agrees to indemnify and hold Peoria harmless from all damage caused to any person or the real property as a result of such entry and the negligent acts or omissions of Fresh Coast or its representatives. Fresh Coast's entry upon proposed and potential Peoria Property(s) shall not interfere with Peoria's use of the real property. Peoria shall, at no cost to Peoria, reasonably cooperate in all respects with Fresh Coast in connection with the tests and inspections. Fresh Coast shall maintain general liability and/or umbrella coverage of \$1,000,000 at all times during which Fresh Coast enters the proposed and potential Peoria Property(s) to conduct any inspection and shall name Peoria as an additional insured.

E. Notwithstanding anything contained herein to the contrary, if a parcel of real estate is designated hereunder, or by Peoria, as proposed or potential Peoria Property, Fresh Coast shall not be required to take control of, or responsibility for such real estate under this Agreement and shall not be obligated hereunder with respect to such real estate, unless and until Fresh Coast has notified Peoria that Fresh Coast has made an affirmative determination that the real estate is suitable for its purposes legally, economically and physically. Fresh Coast shall have the right to reject any proposed or potential Peoria Property, without cost, penalty or further obligation hereunder if Fresh Coast determines in its sole, reasonable judgment that such real estate is not

suitable for a project hereunder. Following such determination, such property will not be deemed Peoria Property and Peoria shall be free to utilize, lease or otherwise dispose of such real property as it desires.

F. Upon a determination by Fresh Coast that it will accept such real estate as Peoria Property, Fresh Coast shall notify Peoria and Fresh Coast will provide a final concept design and a project schedule to Peoria and such land shall be bound by the terms of Section 6 hereof. Peoria shall review and comment on such design and schedule within 5 business days following provision thereof. Failure to respond timely shall be deemed approval hereunder.

Section 6. Land Control During Project Operation

A. Land Control. Fresh Coast is granted the right to occupy, control and use the accepted Peoria Property(s) for any lawful purpose relating to the Grant and the development of green infrastructure projects, including, but not limited to: green stormwater infrastructure with or without integrated urban agriculture (collectively, the “Permitted Uses”). This includes a non-transferable temporary license across, to and through the Peoria Property(s) to be used only to the extent necessary in connection with the Permitted Uses, together with the right of ingress and egress for all purposes incident to this Agreement (the “License”). Peoria shall have the right to enter to inspect the Peoria Property(s) but may not in any way interfere with or impede Fresh Coast’s activities on the Peoria Property(s) and shall repair and/or replace any damage done during its entry or presence on any of the Peoria Properties.

B. Operations. It is understood that Peoria may monitor the ongoing work and operations of Fresh Coast at the Peoria Property but that such work and operations shall be Fresh Coast’s responsibility as will Grant compliance. It is possible that Fresh Coast may retain Peoria or enter into a subsequent agreement with Peoria for services relating to the Permitted Uses and, in such event, Peoria acknowledges that it may be subject to various requirements of the Grant not stated elsewhere in this Agreement.

C. Improvements. Fresh Coast shall be permitted to make additions, alterations and improvements in and on the Premises, provided that upon the expiration or earlier termination of the Term of this Agreement, all improvements then located on the Premises shall be surrendered by Fresh Coast to Peoria and shall become the property of Peoria. This does not include harvestable crops or timber which Fresh Coast shall have the right to harvest. No alterations shall be conducted until Fresh Coast has first procured and paid for, so far as the same may be required, all permits and authorizations of all municipal departments and governmental subdivisions having jurisdiction. Any alterations shall be made promptly and in a good and workmanlike manner and in compliance with all applicable laws, rules and regulations.

D. Proceeds from Projects. Fresh Coast will not be making payments to Peoria under this Agreement but instead will be providing improvements and benefits to Peoria. Peoria will not receive and keep any proceeds derived from its sale of lumber and other plant products generated by the harvest of on-site trees and other plant products (including, but not limited to, flowers) as its compensation for the Permitted Uses. Fresh Coast will determine the distribution of proceeds from the Projects including potentially to its community team members.

E. Environmental Contingency. Peoria acknowledges that Fresh Coast is neither responsible, nor liable, for the existing environmental condition of the Peoria Property. Except as provided herein, neither Peoria nor Fresh Coast makes any representations or warranties of any kind concerning the condition of the Peoria Property(s) at the time that this Section 6 takes effect. Peoria represents and warrants that it has provided to Fresh Coast all reports, data and information regarding the environmental condition, and contamination, of the Peoria Property in its possession or control.

Peoria agrees to indemnify and hold Fresh Coast harmless from any fines, losses, damages, costs (including reasonable attorney fees actually incurred by Fresh Coast in its defense), penalties or liability arising out of the contamination of the Peoria Property occurring before the Commencement Date or migrating into, onto or under the Peoria Property from a source(s) other than the Peoria Property.

F. Approval Contingency. If, within 60 days after the Commencement Date, Fresh Coast is unable to obtain all governmental approvals for zoning, code variances or licenses and permits needed for Fresh Coast to conduct the Permitted Uses, then, Fresh Coast may, by written notice to Peoria delivered within five (5) days after the expiration of the aforesaid 60-day period, either:

- i. terminate this Agreement and neither party having any liability to the other;
- ii. extend such period until the date that is 10 days after all governmental authorities have made final decisions relative to all such governmental approvals and the time periods for appealing such final decisions have expired, and if Fresh Coast is still unable to satisfy the contingencies set forth in this Section 6, Fresh Coast may terminate this Agreement and neither party shall have liability to the other; or
- iii. request that Peoria and Fresh Coast restart the process under this Agreement by agreeing on a new Peoria Property(s).

G. City Duties/Cooperation. Except as provided herein, Peoria shall have no responsibility or liability relating to the establishment, maintenance or harvest of trees or plants hereunder. Peoria shall cooperate with Fresh Coast in connection with any zoning variances and/or special use permits required to use the Peoria Property for the Permitted Uses. Following Peoria's proposal of a Peoria Property, Peoria shall not take any actions that would impair, impede, prevent or harm Fresh Coast's Permitted Uses and projects thereon. Peoria shall cooperate in efforts to maintaining any existing real estate property tax exemption for the Peoria Property. Each Party shall execute and deliver such other and further documents or perform such acts as may be reasonably requested by the other to confirm, consummate and/or effectuate the transaction evidenced hereby and the terms of this Agreement including, but not limited to, supporting and assisting with the securing or permits and approvals for the intended Permitted Uses. Peoria will:

1. Have a representative attend: (a) at least one NRCS approved event pursuant to the Grant; (b) design review meetings; (c) attend regular meetings, kickoff meetings and to represent the Community in coordination with Fresh Coast;

2. Review and comment on all designs, engineering and draft reports provided by Fresh Coast within 5 business days;
3. Cooperate with and assist Fresh Coast in complying with the terms and requirements of the Grant;
4. Notify Fresh Coast by submitting a SF-LLL to Fresh Coast for payments or agreements to pay to any lobbying entity relating to this Agreement or the Permitted Uses;
5. Provide staff time as in-kind support of the project and Permitted Uses;
6. Support Fresh Coast's projects with all applicable regulatory agencies including providing letters of support in advance of such reviews upon request;
7. Document time spent by Peoria employees and other cost-sharing provided by Peoria to the project(s) and Permitted Uses and provide such information to Fresh Coast;
8. Ensure that the following acknowledgment of NRCS support appear in the publication of any material, whether copyrighted or not, and any products in electronic formats (World Wide Web pages, computer programs, etc.) that is substantially based upon or developed under this award: "This material is based upon work supported by the Natural Resources Conservation Service, U.S. Department of Agriculture, under award number 69-3A75-17-21." Also, acknowledge Fresh Coast Capital and NRCS during news media interviews, including popular media such as radio, television, and news magazines, that discuss in a substantial way work funded by the Grant.

Notwithstanding anything contained herein to the contrary, Peoria agrees that if it requests any changes to a plan, design, project or a Permitted Use under this Agreement, such changes may be subject to the review and approval of the NRCS pursuant to the Grant and in the event such a request is rejected by the NRCS, Peoria agrees that such request will be deemed waived.

Should Peoria determine that it may be unable to provide the cost-sharing committed in its letter of support dated May 10, 2016, **Exhibit D**, it must immediately notify Fresh Coast and shall specify how it will secure replacement cost-sharing acceptable to the NRCS.

It is agreed that the Permitted Uses will not be subject to the Peoria Erosion and Stormwater Permitting process; that no permit is required pursuant to the 2017 Peoria Stormwater Ordinance and that no separate submissions or approvals will be required to install a new connection to Peoria sewers for the conveyance of GSI system overflows.

H. Compliance with Laws.

1. Fresh Coast shall use and occupy the Peoria Property in accordance with the terms of this Agreement and otherwise in such a manner as will not constitute a public or private nuisance. Fresh Coast shall not take any action that will diminish the value of any part of the Peoria Property (normal wear and tear excepted), nor permit any waste on the Peoria Property. Fresh Coast, at Fresh Coast's sole cost and expense, shall comply with all of the requirements of all municipal, state, and federal statutes, laws, regulations, requirements and orders now in force, or which hereafter be in force, including but not limited to environmental laws (collectively the "Laws and Regulations"), in connection with the Permitted Uses and its use of the Peoria Property.

2. Fresh Coast shall be responsible, at its sole cost and expense, for obtaining any consents, permits, accreditations, and licenses required to perform the Permitted Uses and install and maintain any equipment used in connection therewith; provided, however, that Peoria shall cooperate, at no cost to Peoria and in all reasonable respects, with Fresh Coast in order to accomplish the same.

I. Repair, Maintenance and Removal. Fresh Coast, at Fresh Coast's sole cost and expense, shall not damage the Peoria Property, surrounding land or any structures, fixtures or equipment thereon.

J. Equipment and Chemicals. Fresh Coast is permitted to store and use herbicides and fertilizers at the Peoria Property, provided that such storage and use is conducted consistent with applicable law and regulations and the manufacturer's instructions. Fresh Coast agrees to indemnify and hold Peoria harmless from any fines, penalties or liability arising out of the contamination of the Peoria Property occurring as a result of the Permitted Uses after the Commencement Date.

K. City Reserved Rights. Peoria hereby reserves the right to use the Peoria Property so long as such use does not materially interfere with Fresh Coast's rights hereunder.

Section 7. Land Control Following Construction

A. No sale During the term of this Agreement, Peoria shall not sell to any person other than Fresh Coast any parcel of designated Peoria Property except as provided in this Section 7.

B. Right of First Refusal If a person or entity other than Fresh Coast delivers to Peoria an offer (the "Peoria Offer") to purchase one or more parcels of Peoria Property so designated or accepted by Fresh Coast, Peoria may only conditionally accept such offer subject to Fresh Coast's right of first refusal. Upon receipt of such offer, Peoria shall deliver to Fresh Coast a copy of the Peoria Offer and Fresh Coast shall have the right to either:

1. purchase, or negotiate a purchase to a third party of all or a portion of the Peoria Property subject by the Peoria Offer upon substantially the same terms and conditions as set forth in the Peoria Offer by giving Peoria written notice of Fresh Coast's election to exercise the Right of First Refusal with respect to such Peoria Property (the "Peoria Exercise Notice") within thirty (30) days after Fresh Coast's receipt of a copy of the Peoria Offer; or

2. if Fresh Coast does not exercise the Right of First Refusal with respect to such Peoria Property, Fresh Coast's Right of First Refusal with respect to such Peoria Property shall be terminated as to the portion of the Peoria Property covered by the Peoria Offer.

C. If Fresh Coast does not exercise the Right of First Refusal with respect to such Peoria Property and Peoria does consummate the sale of the Peoria Property to the third party on the terms set forth in the Peoria Offer, such purchaser's rights shall be subordinate to Fresh Coast's right (but not the obligation) to maintain and harvest the trees and other plants growing on the Peoria Property during the Term of this Agreement.

D. If Fresh Coast does not exercise the Right of First Refusal with respect to such Peoria Property and Peoria does not consummate the sale of the Peoria Property to the third party on the terms set forth in the Peoria Offer, Fresh Coast's Right of First Refusal with respect to such Peoria Property shall not be terminated and shall apply to, and have full force and effect in connection with, all subsequent offers for, and sales of, the Peoria Property. If Fresh Coast exercises the Right of First Refusal with respect to such Peoria Property, Peoria and Fresh Coast will promptly (and in any event, within ten (10) Business Days after Peoria's receipt of the Peoria Exercise Notice) enter into, or negotiate on behalf of a third party assignee, a purchase agreement providing for the purchase and sale of such Peoria Property upon substantially the same terms and conditions as set forth in the Peoria Offer. Any sale(s) of such Peoria Property in violation of the terms of this grant of Right of First Refusal with respect to such Peoria Property shall be null and void and Peoria shall be liable in damages to Fresh Coast for all costs (including legal fees) and losses suffered by Fresh Coast due to such sale.

E. For purposes of the Rights of First Refusal referenced in subparagraph A above, the word "purchase" or "sale" shall include a purchase or sale and any other transaction whereby the Peoria Property or an interest therein will be transferred or conveyed, including, without limitation, a lease transaction. In the event that Peoria intends to accept an Offer which involves consideration other than the payment of cash, Fresh Coast shall be deemed to have matched such Offer if it agrees to pay Peoria the fair market value (as determined by an appraiser reasonably acceptable to both parties) of the consideration to be received by Peoria.

Section 8. Waiver of Claims; Indemnification.

A. Fresh Coast, for and on behalf of itself and its officers, directors, shareholders, partners, members, managers, employees, contractors and agents, and the heirs, legal representatives, successors and assigns of all of the foregoing (collectively, the "Fresh Coast Related Parties"), assumes sole and entire responsibility for any and all loss of life, injury to persons or damage to property (wherever such property may be located) that may be sustained directly or indirectly due to any activities, operations or use of the Property by Fresh Coast or Fresh Coast Related Parties, including without limitation any activities, operations or use in connection with the Permitted Uses. Fresh Coast hereby releases Peoria, its officers, directors, shareholders, partners, members, managers, employees, and agents, and the heirs, legal representatives, successors and assigns of all of the foregoing (collectively, the "City Related Parties") from, and waives all claims, including for damages to person or property, sustained by Fresh Coast, any of the Fresh Coast Related Parties, or by any other person or entity, resulting

directly or indirectly from Fresh Coast's or any Fresh Coast Related Party's use of the Peoria Property or Permitted Uses including, without limitation, any act or neglect of any Fresh Coast Related Party in or about the Peoria Property.

B. Fresh Coast and Fresh Coast Related Parties shall indemnify, defend, and hold harmless Peoria and the City Related Parties from and against any and all claims, actions, obligations, notices of violation, notices of liability, judgments, damages, liability, cost and expense, including reasonable attorneys' fees, arising from or related to:

1. any occurrence in, upon or at the Peoria Property (including loss of life, personal injury and/or damage to property including, but not limited to, any environmental contamination caused or exacerbated during the term of this Agreement) caused directly or indirectly by Fresh Coast or Fresh Coast Related Parties or Fresh Coast's invitees,
2. the occupancy or use by Fresh Coast or Fresh Coast Related Parties of the Peoria Property or any part thereof,
3. Fresh Coast's or Fresh Coast Related Parties' failure to comply with any provision of this Agreement,
4. any act or omission of Fresh Coast or Fresh Coast Related Parties and any person or entity using the Peoria Property (including without limitation any failure by Fresh Coast or anyone acting on Fresh Coast's behalf to comply with the Laws and Regulations), and/or
5. any liability or obligation arising under any environmental law at any location, on-site or off-site as a result of any act or omission of Fresh Coast (or anyone acting on Fresh Coast's behalf) or any hazardous substance, chemical, or contaminant released, exacerbated, transported, disposed or generated by Fresh Coast (or anyone acting on Fresh Coast's behalf) during the term of this Agreement.

Section 9. Insurance. Fresh Coast shall maintain throughout the Term commercial liability insurance with a company that is licensed to do business in Illinois and meets with Peoria approval, not to be unreasonably withheld. Fresh Coast will name Peoria as an additional insured and provide Peoria with a certificate of such insurance on request. Insurance shall be for \$1,000,000 minimum. Proof of insurance to be submitted to City of Peoria.

Section 10. Representations and Warranties of Fresh Coast. Fresh Coast hereby represents and warrants to Peoria as follows:

A. Fresh Coast is duly organized under the laws of the State of Delaware and authorized to conduct business in the State of Illinois, and has full power and authority to conduct its affairs as now being conducted, to execute and deliver this Agreement and to perform its obligations hereunder and thereunder.

B. This Agreement is in full force and effect and is valid, binding and enforceable upon Fresh Coast in accordance with its terms.

Section 11. Representations and Warranties of City. Peoria hereby represents and warrants to Fresh Coast as follows:

A. Peoria has full power and authority to execute and deliver this Agreement and to permit the work, rights and obligations contemplated herein including on the Peoria Property.

B. To the best of Peoria's knowledge, neither the execution, the delivery, nor the performance by Peoria of the provisions of this Agreement does or will, with notice or lapse of time, or both, conflict with or constitute a default under any statute, rule, regulation, decree, decision, resolution, instrument, document or agreement by which Peoria is bound or to which Peoria or any of its properties or assets is subject.

C. Peoria is unaware of any fact or circumstance that would prevent Fresh Coast from conducting the Permitted uses during the Term, subject, however, to legally applicable zoning and land use restrictions, and Fresh Coast's fulfillment of the covenants and agreements contained in this Agreement.

D. This Agreement is in full force and effect and is valid, binding and enforceable upon Peoria in accordance with its terms.

Section 12. Notices. All notices to be given hereunder shall be personally delivered or sent by nationally recognized express or overnight mail, or by certified or registered mail, return receipt requested, with postage prepaid, to the parties at the following addresses (or to such other or further addresses as the parties may hereafter designate by like notice similarly sent):

To the City: _____

To Fresh Coast: _____
c/o Fresh Coast Capital, LLC
35 E. Wacker Drive, Suite 1200
Chicago, IL 60601
Attention April Mendez, Manager

All notices sent by certified mail shall be deemed effectively given on the third business day following the date of such mailing. All notices sent by overnight delivery service shall be deemed effectively given on the next business day following delivery to such overnight delivery service. All notices personally delivered shall be deemed effectively given on the date of such delivery.

Section 13. Term and Termination.

A. Term. Fresh Coast's rights to the Property hereunder shall commence as of the date specified on page one hereof and shall continue until the earlier of the following: (1) 30 days after

the date on which all of Fresh Coast's tasks pursuant to the Grant are completed; or (2) the occurrence of a default by Fresh Coast hereunder, as notified by Peoria, that is not cured within a reasonable time period, which time period shall depend upon the nature of the default.

B. Termination by Fresh Coast. Fresh Coast may terminate this Agreement at any time during the Term hereof upon providing written notice of termination to Peoria at least thirty (30) days in advance of such early termination date. If Peoria and Fresh Coast do not negotiate a new agreement or an amendment to this Agreement during such thirty (30) day notice period, this Agreement shall terminate at the expiration of the thirty (30) day notice period. In the event that Fresh Coast terminates this Agreement before all of the trees and plants have been harvested, Fresh Coast assigns to Peoria the right to harvest the trees and plants remaining at the Peoria Property and Peoria may retain the proceeds in full.

C. Termination by Peoria. If Peoria determines at any time that Fresh Coast is in material breach of its duties hereunder, Peoria will provide Fresh Coast written notice of the deficiencies, and allow Fresh Coast ninety (90) days to cure the deficiencies (the "Notice Period"). If Fresh Coast fails to cure, Peoria will have the right to terminate the Agreement upon the expiration of the Notice Period. If the deficiency is one that cannot be cured within such 90 days, then such cure period shall be extended for such time as shall be reasonably necessary to cure such default provided that Fresh Coast is diligently proceeding during such ninety (90) day period to endeavor to cure such default and continues to make a good faith effort to conduct such cure thereafter. Peoria shall have no right to terminate this Agreement without a determination that Fresh Coast is in breach of this Agreement as provided herein. If Peoria terminates this Agreement for a material breach of this Agreement as provided herein, before all of the trees and plants have been harvested, Fresh Coast assigns to Peoria the right to harvest the trees and plants not already harvested and Peoria may retain the proceeds in full.

D. Peoria Sole Remedy. Peoria agrees that its sole remedy for a breach of this Agreement is the termination of Fresh Coast's rights under this Agreement and transfer of ownership of any crops and/or trees growing on it and not harvested by Fresh Coast plus the recovery of the cost of repairing any actual physical damage done to the Peoria Property by Fresh Coast during its operations. Peoria shall have no rights to any other damages hereunder.

E. Option to Extend. No less than sixty (60) days prior to the end of the Term, Fresh Coast shall have the right, by notice to Peoria, to extend the term of this Agreement for up to one year.

F. Surrender at End of Term. Upon the end of the Term or other termination of this Agreement, Fresh Coast will surrender and return the Peoria Property to Peoria with all improvements made thereto. Fresh Coast is not responsible for removing any remaining tree stumps, reseeded the Peoria Property, or otherwise returning the Peoria Property to its prior condition but is permitted to tender the Peoria Property to Peoria in its then-existing condition. No holding over will constitute a renewal or extension of this Agreement except upon written consent of the parties.

Section 14. Delay/Force Majeure.

Except for payment of sums due, neither party shall be liable to the other or deemed in default under this Agreement if and to the extent that such party's performance under this Agreement is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party so delayed and could not have been avoided by exercising reasonable diligence, such as natural disaster or decrees of governmental bodies not the fault of the affected party(s). If either party is delayed by force majeure, the party affected shall provide written notification to the other party immediately, but shall do everything possible to resume performance. The notification shall provide evidence of the force majeure event to the satisfaction of the other party. If the period of non-performance exceeds one hundred twenty (120) calendar days, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement and the other party shall have no recourse. In the event of such termination by Fresh Coast, Fresh Coast shall retain the right to enter the Peoria Property to recover its equipment and assets and to gather data relative to the purposes of this Agreement and Fresh Coast's grant when circumstances permit.

Section 15. Dispute Resolution.

A. This Agreement will be governed by the laws of Illinois and resort by the parties to any litigation regarding this Agreement shall only be to courts of applicable jurisdiction and venue located within Illinois. In the event of such litigation between the parties, the losing party shall pay the costs and expenses incurred by the prevailing party in connection with the litigation, including, but not limited to, reasonable attorneys' fees.

B. With respect to any suit, action or proceeding involving this Agreement or the Peoria Property, each of the parties expressly submit to the jurisdiction of the federal and state courts sitting in or with jurisdiction over the Peoria Property, and consent that any order, process, notice or motion or other application to or by any such court or judge thereof may be served within or without such court's jurisdiction by registered mail or personal service, prior to the reasonable time for appearances allowed, and each of the parties agrees that such courts shall have the exclusive jurisdiction over any such suit, action or proceeding.

C. If either party commences an action against the other to enforce any of the terms of this Agreement or because of the breach by either party of any of the terms hereof, the losing party shall pay to the prevailing party reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action.

D. Waiver of Jury Trial. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT (WHETHER ARISING UNDER THE CONSTITUTION OF THE UNITED STATES OR THE STATE OF ILLINOIS OR ANY OTHER STATE, UNDER ANY STATUTES REGARDING OR RULES OF CIVIL PROCEDURE APPLICABLE IN ANY STATE OR FEDERAL LEGAL PROCEEDING, UNDER COMMON LAW, OR OTHERWISE) TO DEMAND OR HAVE A TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER THIS AGREEMENT OR IN ANY WAY CONNECTED WITH OR RELATED TO OR INCIDENTAL TO THE DISCUSSIONS, DEALINGS, OR ACTIONS OF SUCH ENTITIES OR PERSONS OR ANY OF THEM (WHETHER ORAL OR WRITTEN) WITH RESPECT THERETO, OR TO THE

TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE; AND EACH PARTY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY TRIAL COURT WITHOUT A JURY, AND THAT ANY OTHER PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF SUCH WAIVER OF RIGHT TO TRIAL BY JURY.

Section 16. Intellectual Property/Confidentiality

A. Other than fair use for the purposes of this Agreement and during the term of this Agreement, neither Peoria nor Fresh Coast shall have any right or claim to any intellectual property owned, licensed or controlled by the other party whose intellectual property rights following the termination of this Agreement shall remain as they were prior to the execution of this Agreement. Nothing contained in this Agreement requires or otherwise binds either party to a future agreement with the other regarding the development of future green infrastructure projects beyond the project contemplated in this Agreement. Further, nothing contained in this Agreement requires or otherwise prevents either party from using their own intellectual property, licensing third-party intellectual property or using publicly available intellectual property in developing future green infrastructure projects.

B. Fresh Coast shall share with Peoria all reports and submissions it submits to the USDA pursuant to its USDA-NRCS CIG Agreement No, 6903A750 that are subject to disclosure pursuant to the Freedom of Information Act.

C. During the course of, and as a result of, the performance under this Agreement, including providing the Resources, Peoria, its agents, affiliates and/or contractors may create certain materials, plans, drawings, specifications, books and records, computer files, or other tangible manifestations of Peoria's efforts. Notwithstanding anything to the contrary contained herein, such intellectual property and work product shall be deemed to be, and shall remain, the property of Peoria irrespective of any claims of Fresh Coast or copyright notices or confidentiality legends which may have been placed in or on such work product.

D. During the course of, and as a result of, the performance under this Agreement, including providing the Resources, Fresh Coast or its subsidiaries, agents, affiliates and/or contractors may create certain materials, plans, drawings, specifications, books and records, computer files, or other tangible manifestations of Fresh Coast's efforts. Notwithstanding anything to the contrary contained herein, such intellectual property and work product shall be deemed to be, and shall remain, the property of Fresh Coast irrespective of any claims of Peoria or copyright notices or confidentiality legends which may have been placed in or on such work product.

E. Activities performed under the Grant hereunder may involve access to confidential and potentially sensitive information about governmental and landowner issues. The term "confidential information" means proprietary information or data of a personal nature about an individual, or information or data submitted by or pertaining to an organization. This information must not be disclosed without the prior written consent of NRCS, or pursuant to FOIA or applicable court order. In the event of a request or lawsuit seeking such disclosure, Peoria agrees to use its

best efforts to immediately notify Fresh Coast to provide Fresh Coast the opportunity to seek Court protection of its rights, such notice not constituting Peoria taking a position on such rights.

Section 17. Miscellaneous.

A. Assignment. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs and successors. This Agreement may not be sold, transferred, or assigned by either party without the consent of the other, which shall not be unreasonably withheld. Merger, acquisition, sale or transfer of any equity or controlling interests in Fresh Coast as shall not be an assignment in violation of this provision.

B. This Agreement may be executed in two or more counterparts, with the same effect as if all the signatures on the counterparts were on the same instrument.

C. This Agreement (including exhibits) may be modified, amended or canceled only by a writing signed by all of the parties hereto.

D. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

E. This Agreement constitutes the entire agreement between the parties hereto with regard to the subject matter hereof.

F. Neither party is the agent of the other and neither party has authority to execute any agreement, document or application on behalf of the other. The parties are not partners, joint venturers, or members of one another. No partnership, joint venture, or other agreement or arrangement exists between the parties and this Agreement does not, and is not intended to, evidence an agreement to any of the foregoing.

G. Fresh Coast will not allow any liens to be placed on the Peoria Property because of, or relating to the Permitted Uses. If a lien or claim is filed by anyone claiming by, through or under Fresh Coast, Fresh Coast shall, within sixty (60) days after receiving notice of the filing, defend and indemnify Peoria and shall remove and discharge same, bond over such lien or otherwise provide reasonable security for the payment of such lien.

H. No Third Parties Benefited. The provisions of this Agreement are not intended to, and do not, confer on any person or entity not a party to this Agreement the status of a third-party beneficiary with rights to enforce this Agreement.

I. Waiver. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions, whether or not similar, nor shall any waiver be a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

J. Time is of the essence with respect to this Agreement. Whenever in this Agreement it is provided that notice must be given or an act performed or payment made on a certain date, if

such date falls on a Saturday, Sunday or a nationally recognized holiday of the United States, the date for the notice of performance or payment shall be the next following business day.

K. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

[Signature Page Follows]

FRESH COAST CAPITAL, LLC

CITY OF PEORIA

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Exhibit A - Full Proposal Scope of Work

Planning and partnership contracting phase

Methodology. This phase includes finalization of sites for green stormwater infrastructure installations and contracting with city partners who provide land use approval and the land itself. Site selection and intended designs will be identified in enough detail during this stage to provide the community with comfort in the initial projects to be implemented. Additional “backup” sites may also be identified to allow for flexibility during the project’s implementation phase. This stage includes outreach and engagement through AKRF with local engineering firms who may be contracted to help with project construction. In addition, we will work with gitm Foundation to develop the plans and educational content for the community-based social enterprise aspect of the green infrastructure installations.

Tools and Processes. In this stage, the Team will develop or refine many of the tools needed for the success of this project:

- Fresh Coast will engage with NRCS to finalize a project scope and will work with the City and gitm Foundation to develop a partnership agreement.
- AKRF may establish certain sub-contracts with local engineering firms in Peoria to assist with any on-location construction work.
- Fresh Coast, with input from the City, will develop a detailed outreach plan and begin community outreach through a dual top-down and bottom-up approach by engaging both local community associations and directly with residents.
- Fresh Coast and AKRF will develop a basic process for integrating USDA Forest Service i-Tree hydro calculator with the US EPA’s SWMM stormwater modeling software in order to estimate impacts of stormwater forests and to be considered in portfolio planning.
- Fresh Coast and AKRF’s prior work in designing site concepts for stormwater forests and other revenue-generating green stormwater infrastructure for the South Peoria neighborhood will be leveraged as the basis for more detailed designs to be developed in this phase. AKRF will specify design parameters for all sites in the portfolio to maximize stormwater function, while also keeping in mind other critical factors such as site access, constructability, aesthetics, maintenance needs, and installation costs. Specific city guidance will be sought on aspects of design, including: desired green infrastructure practice types, co-benefit program priorities, aesthetics, safety standards, pretreatment standards, outreach and public engagement methods, and asset data collection and tracking systems and methods.
- The process for site selection first involves a desktop screening process utilizing GIS data, environmental databases and other remote sensing data such as commonly available street view, bird’s eye, and aerial imagery. Factors that may be assessed during this desktop phase may include: zoning, ownership, potential for environmental contamination, community socio-economic characteristics, parcel size, soil survey data, slope, capture areas for off-site stormwater capture, and constraints such as existing structures, filled basements, visible utilities, existing uses, etc. AKRF has already conducted a basic desk and on-site visual assessment of the South Peoria neighborhood, and will continue this process. The

second phase of the site screening process will involve field data collection. AKRF has developed field data collection protocols for prior projects and has developed electronic data collection forms to support data capture using Tablet PCs. Field data collection protocols may include: refinement of potential capture areas for off-site stormwater capture, assessment of stormwater/wastewater conveyance requirements, further mapping of existing site constraints and uses, site access, and constructability concerns, infiltration testing, and geophysical methods for assessing subsurface conditions and utilities. The team will use industry standards (e.g., ASTM standards) where appropriate.

- Fresh Coast and AKRF, with input from the City and the gitm Foundation will develop a maintenance plan specific to final site designs selected. Fresh Coast and AKRF, with input from the City, will also develop monitoring protocol to measure volumetric stormwater management. Where possible, we will also identify and measure metrics for soil health, water quality, and social impact.

Site prep and project construction phase

Methodology. In this phase, site contracting, site prep and project establishment will be conducted. Site contracting requires community outreach around the project, lease negotiation and formal approvals from municipal partners. Sites will be prepared, including any necessary land clearing and regrading. Upon completion of land preparation work, projects will be installed in partnership with professional contractors and/or expert development partners. Fresh Coast will also leverage work already performed on the ground in Peoria and elsewhere to select, acquire, and contract this land.

Tools and Processes. Fresh Coast has developed significant experience through our work securing dozens of parcels under lease in 7 cities and will leverage their portfolio planning processes utilized in early adopter green stormwater infrastructure cities like Philadelphia and New York City.

Ongoing maintenance and monitoring of stormwater management and other metrics phase

Methodology. Fresh Coast and partners will implement the ongoing maintenance and monitoring plans with assistance from local engineering firms and community members engaged through the educational programming of the gitm Foundation. In addition, Fresh Coast will contract an independent third-party evaluator to ensure ongoing maintenance and operations of sites adhere to performance protocols.

Tools and Processes. Fresh Coast and AKRF will install and operate a series of weirs, pressure transducers (i.e. to measure stormflow in pipes and/or water level in shallow monitoring wells), tensiometers, soil moisture sensors, rain gauges and/or other monitoring equipment to develop a water budget understanding of the stormwater forests and how they compare to traditional green stormwater installations. Simple water budgeting tools (i.e. WatBug) will be used to compute monthly and annual water budgets for installation sites. Study results will be used to refine input and computational parameters associated with the stormwater calculator for stormwater forests. This equipment will be spread across engineered sites and control site.

Food and/or flower crops harvested and sold, community engagement and education phase

Methodology. Throughout the late spring and summer seasons each year for the duration of this grant, Fresh Coast and the gitm Foundation will engage a network of community participants to

harvest food and/or floriculture crops from selected green stormwater infrastructure installations. These crops may be donated to local food banks or sold at neighborhood stands or local farmers markets through Gitm Foundation's existing distribution network. Revenues generated would belong to the resident micro-entrepreneurs.

Tools and Processes. Gitm Foundation will leverage their existing urban agriculture training and management program designs to create a specific design for this program. Fresh Coast and AKRF will also leverage and modify the process employed by AKRF to train local youth in Philadelphia to maintain green stormwater infrastructure. These models will be integrated to ensure both the effectiveness of the green infrastructure and the success of micro-enterprise.

Final “scaling toolkit” completion and preparations for scale phase

Methodology. While the collection of data for this toolkit will occur throughout many of the phases outlined above, the Team will set aside a portion of our work on this project for further refinement of these resources before scaling the project in Peoria and other cities and to generate credibility with impact investors. Examples of how this will occur will include:

- Analysis of the iTree/SWMM calculator data calibrated against actual field data will result in recommendations for model adjustment factors and optimized recommended site designs for maximum stormwater management.
- Analysis of true cost data for multiple installation types including stormwater forests and other revenue generating installations will allow Fresh Coast and AKRF to further optimize the portfolio design process to ensure that, at scale, the most cost-effective portfolio is implemented. In addition, the possible analysis of cost savings to the city for these installations as compared to more traditional methods will also help in future sales and marketing to city partners and investors alike.

Tools and Processes. iTree/SWMM will be combined to develop a final process to derive quantitative estimates of stormwater benefit (e.g., gallons of stormwater removed/transpired or pollutants removed, etc.) based on a range of model inputs that reflect both the specific design parameters of revenue generating green stormwater infrastructure and site specific conditions such as soil conditions, slope, shading, and other factors. An example schematic of how this integration of the two models will work is provided.

Exhibit B: Grant Agreement



November 10, 2016

Laura Kimes
Fresh Coast Capital
2064 N California Ave, Apt 206
Chicago, IL 60647-6313

Dear Madam,

Enclosed for signature is the new USDA-NRCS CIG Agreement number 69-3A75-17-21 for the project titled, "Creating working landscapes from former urban lands in legacy cities: Applications and scale with revenue generating stormwater infrastructure and impact investing". The NRCS award amount is \$940,800 and the effective dates for this project will be the final Federal signature to September 30, 2019.

The Notice of Grant and Agreement Award (NOA), when signed by authorized NRCS official, is the authorizing and fully executed document. **This agreement is not fully executed until signed by the proper NRCS official. No additional work beyond the 60 days pre-award cost authorization approval may be performed under this agreement until it has been signed by BOTH parties.**

Please sign page two (2) of the Notice of Award. Your signature certifies full compliance with all terms and conditions of the agreement, as well as stated grant and agreement regulations, and that the document has not been altered. Once signed, please email a copy of the signature page to me.

Also attached are forms AD 3030, ACH 3831, and form SF-LLL, Disclosure of Lobbying Activities. This disclosure form is required for all awards over \$100,000. Please complete and sign each form and return it with your signed award document.

If you have any questions regarding this agreement, please contact me at 202-692-0353 or by email at Kalaya.Washington@wdc.usda.gov.

Sincerely,

KALAYA
WASHINGTON

Digitally signed by
KALAYA WASHINGTON
Date: 2016.11.10
10:18:07 -05'00'

KALAYA WASHINGTON
Grants Management Specialist

Natural Resources Conservation Service
Grants and Agreements Services Branch

An Equal Opportunity Provider and Employer

NOTICE OF GRANT AND AGREEMENT AWARD

| | | | |
|---|-------------------------|--|---|
| 1. Award Identifying Number 69-3A75-17-21 | 2. Amendment No. | 3. Award/Project Period Final Federal Signature - 09/30/2019 | 4. Type of Award Instrument Grant |
|---|-------------------------|--|---|

| | | | |
|---|---|---------------------------|---------------------------|
| 5. Agency: Natural Resources Conservation Service (NRCS) (Name and Address) United States Department of Agriculture Natural Resources Conservation Service 1400 Independence Avenue SW Washington, DC 20250 | 6. Recipient Organization: (Name and Address) Fresh Coast Capital 2064 N California Ave, Apt 206 Chicago, IL 60647-6313 | | |
| | <table border="1"> <tr> <td>DUNS: 079897680</td> <td>EIN: 46-5765537</td> </tr> </table> | DUNS: 079897680 | EIN: 46-5765537 |
| DUNS: 079897680 | EIN: 46-5765537 | | |

| | | | |
|--|---|--|--|
| 7. NRCS Program Contact: Meliely Cotton Meliely.Cotton@wdc.usda.gov (202) 720-7412 | 8. NRCS Administrative Contact: Kalaya Washington Kalaya.Washington@wdc.usda.gov (202) 692-0353 | 9. Recipient Program Contact: Laura Kumas laura@freshcoastcapital.com (312) 707-4265 | 10. Recipient Administrative Contact: |
|--|---|--|--|

| | | | |
|----------------------------------|---|----------------------------------|------------------------------------|
| 11. CFDA Number 10.912 | 12. Authority (EQIP) 16 U.S.C. 3839aa-3839aa-8, 3841 | 13. Type of Action New | 14. Project Director N/A |
|----------------------------------|---|----------------------------------|------------------------------------|

15. Project Title/Description:
Conservation Innovation Grants - Creating working landscapes from former urban lands in legacy cities: Applications and scale with revenue generating stormwater infrastructure and impact investing

16. Entity Type: Profit Nonprofit Higher Education Federal State/Local Indian/Native American
 Other

| | | | | | | | |
|---------------------------------|---|---|--|---|----------------------------|----------------------------|------------------------------------|
| 17. Select Funding Type: | <input checked="" type="checkbox"/> Federal | <input checked="" type="checkbox"/> Non-Federal | 18. Accounting and Appropriation Data | | | | |
| | Original Funds Total: | \$940,800 | \$1,025,360 | Financial Code NR SI EQIP ST 0000 15X XF | Amount \$940,800 | Fiscal Year 2016 | Treasury Symbol 124X1000 |
| | Additional Funds Total: | | | BOC: 2550 | | | |
| | Grand Total: | \$940,800 | \$1,025,360 | | | | |

19. APPROVED BUDGET

| | | | |
|--------------------|------------|-----------------------------|--------------|
| Personnel | \$ 114,800 | Fringe Benefits | \$ |
| Travel | \$ 63,000 | Equipment | \$ 62,000 |
| Supplies | \$ 2,000 | Contractual | \$ 279,000 |
| Construction | \$ 400,000 | Other | \$ 20,000 |
| Total Direct Cost\ | \$ 940,800 | Total Indirect Cost | \$ |
| | | Total Non-Federal Funds | \$ 1,025,360 |
| | | Total Federal Funds Awarded | \$ 940,800 |
| | | Total Approved Budget | \$ 1,966,160 |

This agreement is subject to applicable USDA NRCS statutory provisions and Financial Assistance Regulations. In accepting this award or amendment and any payments made pursuant thereto, the undersigned represents that he or she is duly authorized to act on behalf of the awardee organization, agrees that the award is subject to the applicable provisions of this agreement (and all attachments), and agrees that acceptance of any payments constitutes an agreement by the payee that the amounts, if any found by NRCS to have been overpaid, will be refunded or credited in full to NRCS.

(Continuation)

| NOTICE OF GRANT AND AGREEMENT AWARD | | | |
|-------------------------------------|---------------|--------------------------------------|--------------------------|
| Award Identifying Number | Amendment No. | Award/Project Period | Type of Award Instrument |
| 69-3A75-17-21 | | Final Federal Signature - 09/30/2019 | Grant |

| | | |
|--|--|-----------------|
| Name and Title of Authorized Government Representative Thomas W. Christensen Associate Chief for Operations | Signature  | Date 12/7/16 |
| Name and Title of Authorized Recipient Representative Laura Kimes Cofounder and Director of Ecosystem Services | Signature Laura B Kimes <small>Digitally signed by Laura B Kimes Date: 2016.12.01 10:27:58 -0800</small> | Date |

NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

PRIVACY ACT STATEMENT

The above statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. Section 522a).

Programmatic and Technical Information
for the
Statement of Work for Agreement
between
USDA-Natural Resources Conservation Service
and the
Fresh Coast Capital

NRCS Program: Fiscal Year 2016 Conservation Innovation Grants

Project Title: Creating working landscapes from former urban lands in legacy cities: Applications and scale with revenue generating stormwater infrastructure and impact investing

Authority

The Conservation Innovation Grants program (CIG) is authorized as part of the Environmental Quality Incentives Program (EQIP) [16 U.S.C. 3839aa-8] under Section 2207 of the Agricultural Act of 2014.

NRCS Program Contact:

Name: Melleny Cotton Title: National CIG Program Manager
Address: 1400 Independence Avenue, SW
Washington, D.C. 20250
Phone #: 202-720-7412
E-mail: melleny.cotton@wdc.usda.gov

Grantee Project Contact:

Name: Laura Kimes Title:
Address: Fresh Coast Capital
2064 North California Ave. Apt 206
Chicago, Illinois 60647-6313
Phone #: 631-707-4285
E-mail: laura@freshcoastcapital.com

NRCS Technical Contact:

Name: Kari Cohen, Title: Team Lead - Conservation Finance
Address: 1400 Independence Avenue, SW
Washington, D.C. 20250
Phone #: 202-720-6037
E-mail: kari.cohen@wdc.usda.gov

Project Purpose/Objective:

The City of Peoria, Illinois has a combined sewer system that creates water quality issues in the Illinois river, which is part of the Mississippi River watershed. Fresh Coast will work with partners AKRF and the City of Peoria to install absorptive plant and tree-based landscapes that also generate revenue and create community engagement opportunities. In particular, landscapes will include harvestable stormwater tree farms as well as rain gardens (with food crops and/or native floriculture) on vacant and right-of-way land to form a complete streetscape of “green fingers” in the South Peoria neighborhood. The successful demonstration of these plantings and related monitoring program to will allow Fresh Coast to expand with privately funded impact investment capital throughout Peoria and into an estimated 40+ cities facing the dual issue of land vacancy and stormwater issues and allow such communities to meet regulatory requirements.

Deliverables:

Sections “Project action plan and timeline” and “Project deliverables” above list anticipated project deliverables designed to allow Fresh Coast to manage and NRCS to monitor project progress. Of particular note are technical deliverables that will support the scaling of this project within Peoria and in other communities. Those deliverables are: sample partnership agreements, sample lease agreements, community outreach education and entrepreneurship plan, calculator integration process and modifications to iTree and SWMM, “best practice” metrics, sample maintenance and monitoring plans, and the final technical toolkit for scaling discussed above. This is also in addition to the completion of a final report by the third-party evaluation consultant.

In addition to the specific products mentioned above, we will develop all required semiannual and final reports, new innovation fact sheets, and participate in at least one CIG showcase or comparable NRCS event.

In addition to project-specific deliverables listed in the full-proposal, grantees are required to provide the following:

- 1. Semi-annual reports;

| Reporting Period | Report Due |
|------------------|------------|
| October-March | April |
| April-September | October |

- 2. Supplemental narratives that explain and support payment requests;
- 3. A final report;
- 4. Performance items specific to the project that indicate progress
- 5. A new technology and innovative approach fact sheet; and
- 6. Participation in at least one NRCS approved event during the grant period.

Other

- Funding for this grant is from the Environmental Quality Incentives Program (EQIP). Section 1240G of the Food Security Act of 1985, 16 U.S.C. 3839aa-7, imposes a \$450,000 limitation for all financial assistance payments disbursed to individuals or entities under an EQIP contract between FY 2014 and FY 2018.
- In addition, section 1240B, 16 U.S.C. 3839aa-2, prohibits duplicative payments. Accordingly, direct or indirect payments cannot be made for a practice for which an individual or legal entity has already received funds, or is contracted to receive funds through any USDA conservation program.
- To participate in EQIP financial assistance, an individual or entity must meet the eligibility requirements in 7 CFR 1466.8, which include the following:

| Criteria | Potential Verification Documentation* |
|--|---|
| Be in compliance with the highly erodible land and wetland conservation provisions (7 CFR Part 12) | Documentation of their compliance status can be obtained by the producer at their local USDA Service Center or through the USDA customer service on-line portal |

| | |
|--|--|
| Have an interest in the agricultural operation as defined in 7 CFR Part 1400 | Documentation of their farm interest can be obtained by the producer at their local USDA Service Center or through the USDA customer service on-line portal showing that the producer has farm records established |
| Have control of the land for the term of the proposed contract period | Documentation can be provided in the form of a deed, lease, or other documents which show the producer has adequate control for the term of the proposed contract period |
| The average adjusted gross income of the individual, joint operation, or legal entity may not exceed \$900,000 | If using FY 2014-2018 CIG funding, documentation of a producer's Adjusted Gross Income (AGI) eligibility status can be obtained by the producer at their local USDA Service Center, or through the USDA customer service on-line portal. |

- Technical Contact: NRCS will provide a technical contact for this grant. The Technical Contact will have technical oversight responsibility for the project. The grantee is responsible for providing the technical assistance required to successfully implement and complete the project. The grantee must send copies of each biannual progress report to the technical contact, and comply with any requests for information from these individuals.
- The Standard Form SF-424 Application Package (SF-424, 424a and 424b).
- Certification of Lobbying
- AD-3031 Assurances Regarding Felony Tax Conviction
- SF-LLL-Disclosure of Lobbying (> \$100,000)
- The grantee is responsible, without recourse to NRCS or USDA, for the settlement and satisfaction of all contractual and legal issues arising out of arrangements entered into between the grantee and third parties to carry out approved project activities. Matters concerning violation of law should be referred to the Federal, State, or local authority having proper jurisdiction.
- The Federal Travel Regulations will serve as a guideline for any travel performed under this grant.
- The Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations at 40 CFR parts 1500-1508 and the NRCS regulation that implements NEPA at 7 CFR Part 650 require that an environmental analysis be undertaken for actions where the agency has discretion and control. Accordingly, NRCS financial assistance under the CIG program requires compliance with these regulations. Therefore, should the project be modified or additional information become available to indicate the project activities or impacts may be different from those described in the project proposal, additional environmental documentation may be required. At a minimum, the grantee will need to prepare a revised Environmental Evaluation and deliver it to NRCS for review. If NRCS determines it is necessary to meet NEPA requirements, the grantee will be required to prepare and pay for the preparation of the appropriate NEPA document (e.g., Environmental Assessment or Environmental Impact Statement if required for NEPA compliance) before implementation of that project phase may begin.

NRCS CONSERVATION INNOVATION GRANT
Semi-annual Progress Report

| | |
|---|---|
| Grantee Entity Name: Fresh Coast Capital | |
| Project Title: Creating working landscapes from former urban lands in legacy cities | |
| Agreement Number: 69-3A75-17-21 | |
| Project Director: Laura Kimes | |
| Contact Information | Phone Number: (631) 707-4285 E-Mail: laura@freshcoastcapital.com |
| Six Month Period Covered by Report: | |
| Project End Date: 09/30/2019 | |

A. Project Status

1. Summary of progress, including the results to date and a comparison of actual accomplishments with proposed goals (milestones) for the period and, where project output can be quantified, a computation of the costs per unit of output.
2. Current problems or unusual developments or delays.
3. Reasons why goals and objectives were not met, if appropriate.
4. Additional pertinent information including, where appropriate, analysis and explanation of cost overruns or high unit cost.
5. Any funded or unfunded time extensions.
6. Any changes to the project's original objectives, methods, or timeline with a summary of the justification for the changes.
7. Lessons learned that inform future project activities or broader efforts in the project's topic area.
8. Work to be performed during the next six month period.

B. Project Results

1. Any preliminary results that can be used by NRCS for practice standard revisions, new practice standard adoption, policy changes, program revisions and training opportunities
2. Products, software tools and/or technologies currently ready for adoption and/or transfer.
3. Potentially promising products, software tools and/or technologies not yet ready for adoption and/or transfer, and a description of what is needed to reach that maturity.
4. Identification of any new data or research needs to inform broader efforts in the project's topic area.
5. Project activities that have been featured on recipient or partner websites and success stories that could be amplified by NRCS.

C. EQIP Requirements

Provide the following in accordance with the Environmental Quality Incentives Program (EQIP) and CIG grant agreement provisions:

1. A listing of EQIP-eligible producers involved in the project, identified by name and social security number or taxpayer identification number;
2. The dollar amount of any direct or indirect payment made to each individual producer or entity for any structural, vegetative, or management practices. Both biannual and cumulative payment amounts must be submitted.
3. A self-certification statement indicating that each individual or entity receiving a direct or indirect payment for any structural, vegetative, or management practice through this grant is in compliance with the adjusted gross income (AGI) and highly-erodible lands and wetlands conservation (HEL/WC) compliance provisions of the Farm Bill.

Final Project Reports Guidance

Conservation Innovation Grants (CIG)

Numerous and diverse groups, including Natural Resources Conservation Service (NRCS) employees, other government agencies, and non-governmental organizations, take interest in the information associated with funded grant proposals to address conservation technology innovation. Information from Final Project Reports assist principal users in the technology transfer process.

Final Project Reports are a permanent record of project accomplishments. Reports are used to assess the success of grant program, as an important element in ensuring accountability and good management of public funds. Reports are also used to transfer appropriate technology to State and Federal agencies for use with agricultural producers. Follow the format below to describe the methodology or procedures used to evaluate the project, determine the technical feasibility, and quantify the results of the project for a final report.

Final Project Reports

Grantees are required to submit a Final Project Report of project accomplishments at the conclusion of the grant. Final Project Reports are due 90 days after the expiration of the agreement. Reports should be submitted electronically as PDF or Word via e-mail or CD.

The Final Project Report will summarize the project and describe methods, quality control, findings, and recommendations. Final Project Reports should be prepared by or under the supervision of the project's principle investigator. Preparing thorough interim reports as the project progresses will make the Final Project Report easier to develop.

The Final Project Report should contain the following parts:

- Cover Page
 - Title of the grant or project
 - Name of the principal investigator or project manager
 - Timeframe covered by the report
 - Grant number, if any
 - Date of submission
 - Deliverables identified on the grant agreement
- Table of Contents
- Executive Summary
- Introduction
- Background
- Review of methods
- Discussion of quality assurance
- Findings
- Conclusions and recommendations
- Appendices
- Technology Review Criteria

Executive Summary: A summary of the activities carried out during the project, difficulties encountered, major findings, and conclusions and recommendations. The Executive Summary should answer these questions:

- What NRCS designated priorities were met with this grant?
- What were the goals and objectives for this project?
- What were the accomplishments?
- Were the goals and objectives met? If not, what were the barriers to completion?
- Was the project completed on time? If not, what were the reasons for extending the timeframe?
- Who are the customers that benefit from this grant?
- Were project funds spent as anticipated? If not, describe major changes in the budget.
- What methods were employed to demonstrate alternative technology in this project?
- What were the quantifiable physical results from this project?
- What were the economic results?
- Are there Federal, State, and local programs that may be used to implement this project?
- What are the major recommendations resulting from this project?

Introduction: The Introduction should set the stage for the discussion that follows. The Introduction and some of the following sections will expand on material that was condensed in the Executive Summary. At a minimum, include the following items:

- A brief overview of the project: who, what, where, when, and how (key personnel and a description of their qualifications).
- Project goals and objectives (including those designated in the NRCS grant request).
- The scope of project tasks.
- Business or academic relationships that facilitated the project, including leveraging (both direct and in-kind support).
- How the project was funded.

Background: Describe the factors that lead to the development of this project. Include the following items:

- What is the problem the project was intended to address?
- A brief account of previous attempts to solve the problem.
- How the problem is usually dealt with today.
- What agriculture or environmental sector could benefit by this project?
- What natural resource issues are addressed?
- The negative effects of the problem on the environment, the community, or the producer's economic welfare.

Review of methods: Describe the physical and analytic activities of the project. Include the following items:

- Explain what was innovative about the project, in terms of the equipment used, the management process employed, changes in timing, or anything about the project that makes it different from standard practice.
- Compare the innovative portions of the project to existing practices to show differences in labor input, materials input, economic input and return, changes in production, or changes in the fate and transport of pollutants.

Review of methods (continued):

- If part of the project revolves around marketing an alternative product (example: composted manure), describe how the potential market was analyzed, economic projections, and any actual marketing activity that took place.
- Describe what the producer had to do differently to accommodate the project, in terms of labor, maintenance, obtaining materials, feeding, milking, pasturage, cropping, or any other operation adjustments.
- Include a schedule of events that shows when components were built or installed, the period of time that data was collected, and any adverse events such as storms or equipment failure that affected the project.
- Include maps, diagrams, and other material that shows the location of the project, location of equipment and facilities, environmentally sensitive areas, etc.
- Summarize what worked, what didn't work, and why. It is important to know if parts failed or processes did not behave as expected, or maintenance was different than expected, in order to assess future projects.
- What would be done differently in this project if it were started today?

Discussion of quality assurance: Describe the steps taken to ensure that data from the project are valid. Include the following items:

- Project site description: characteristics of the site, sample locations, rationale for locations, map.
- Sampling design. Include the precision level of measurements, completeness (will data be sufficient), how samples and measurements truly represent what is occurring, and comparability (can the project situation be compared to real-life situations).
- Sampling procedures. Describe collection methods, collection frequency, equipment used, volume or amounts sampled, and how samples are handled, stored, and transported.
- Custody procedures. Describe chain-of-custody procedures for samples and data.
- Calibration. What, if any, field equipment will require calibration and how will it be done?
- Sample analysis and quality control. Cite analytical procedures to be used in the field or laboratory, sub-sampling or sample preparation, units of measure to be used. Describe limits of detection. Describe quality control processes.
- Discuss data reduction, analysis, review, and reporting. How raw data is converted and presented, who reviewed it, and how the final presentation was derived.

Findings: Enumerate the physical and economic findings of the project. Show how the findings did or did not support the goals of the project.

Conclusions and recommendations: Summarize the conclusions to be drawn from the project, recommend how the technology should be studied further, how it should be brought into common usage, or why the technology is deemed not useful. If the technology is recommended for common usage, include operation and maintenance recommendations. Identify the next steps in bringing this technology to the field.

Appendices: Place in the appendices any of the following items that the Final Project Report contains:

- Raw data
- Laboratory reports
- Description of testing methods
- Specifications for manufactured equipment or parts
- Process flow charts
- References
- Budget information
- Survey results
- Maps
- Worksheets;
- Public meeting minutes
- Publication lists
- Any other supporting information not essential to the main body of the report

For Technology Review Criteria: If the process or methods in the project are recommended for field use, include as an appendix the following items, which will facilitate reviewing the new technology for potential field use.

Technology Review Criteria for Alternative Technologies (to be applied under Existing Practice Standards) NOTE: If the Technology Review Criteria (see below) are not appended to the Final Project Report, no recommendation for field use of new technology will be carried out unless specifically requested by an NRCS State Office, at which time the Criteria will need to be developed and submitted by the grantee.

NRCS Conservation Practice Standards (the standard) have been developed to facilitate implementation and cost sharing of conservation methods and technologies. NRCS will review technologies that have the potential to be applied under these standards. It is not the intent of NRCS to provide approval or disapproval of technology for a specific cost-share application. The decision to implement and provide cost share funds for measures and technologies rests with the State Conservationists and their technical and program staff members. Technology Review Criteria will be prepared by the technology provider, **not** by NRCS staff, and will contain the following:

- A description of the technology (process, method, equipment, or proprietary item) or measure.
- An explanation of how this technology or measure will accomplish one or more of the purposes of an existing standard.
- Process monitoring and control system requirements, if applicable.
- An example of warranties on all construction materials, equipment, or applied processes not covered by other NRCS Conservation Practice standards.
- An operation and maintenance plan that includes performance monitoring requirements and a replacement schedule for components that will not last for the practice lifespan.
- Estimated installation and annual operation cost.
- Contact information for individuals that have implemented this technology successfully.

- Independent, verifiable data demonstrating results for the use of the measure, equipment, facility or process in other similar situations and locations.
- The credentials of the individual collecting the data along with a disclaimer of any conflict of interest on the part of the individual.
- Contact information for the technology provider.

Upon receipt of this report NRCS, will estimate the time required for review and report back to the grantee and other concerned parties. NRCS will review the information in the report and verify the information where possible. NRCS will consult technical specialists as necessary to insure a thorough review. Upon completion of this review, NRCS will provide a report noting the strengths and weaknesses of the measure, equipment, or technology as well as a recommendation on the potential for successful implementation.

**NATURAL RESOURCES CONSERVATION SERVICE
U.S. DEPARTMENT OF AGRICULTURE**

**GENERAL TERMS AND CONDITIONS
GRANTS AND COOPERATIVE AGREEMENTS**

I. APPLICABLE REGULATIONS

- a. The recipient, and recipients of any subawards under this award, agree to comply with the following regulations, as applicable. The full text of Code of Federal Regulations references may be found at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1> and <http://www.ecfr.gov/>.
- (1) 2 CFR Part 25, “Universal Identifier and System of Award Management”
 - (2) 2 CFR Part 170, “Reporting Subaward and Executive Compensation Information”
 - (3) 2 CFR Part 180, “OMB Guidelines To Agencies On Governmentwide Debarment And Suspension (Nonprocurement)”
 - (4) 2 CFR Part 182, “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)”
 - (5) 2 CFR Part 200, “Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards”
- b. The recipient, and recipients of any subawards under this award, assure and certify that they have and/or will comply with the following regulations, as applicable. The full text of Code of Federal Regulations references may be found at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1> and <http://www.ecfr.gov/>.
- (1) 2 CFR Part 175, “Award Term for Trafficking in Persons”
 - (2) 2 CFR Part 417, “Nonprocurement Debarment and Suspension”
 - (3) 2 CFR Part 418, “New Restrictions on Lobbying”
 - (4) 2 CFR Part 421, “Requirements for Drug-Free Workplace (Financial Assistance)”
- c. Allowable project costs will be determined in accordance with the authorizing statute, the purpose of the award, and to the extent applicable to the type of organizations receiving the award, regardless of tier. The following portions of the Code of Federal Regulations are hereby incorporated by reference (the full text of Code of Federal Regulations references may be found at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1> and <http://www.ecfr.gov/>).
- (1) 2 CFR Part 200, “Uniform Administrative Requirements, Cost Principles And Audit Requirements For Federal Awards”
 - (2) 48 CFR Part 31, “Contract Cost Principles and Procedures”

II. UNALLOWABLE COSTS

The following costs are not allowed:

- a. Costs above the amount authorized for the project
- b. Costs incurred after the expiration of the award including any no-cost extensions of time
- c. Costs that lie outside the scope of the approved project and any amendments thereto
- d. Compensation for injuries to persons or damage to property arising from project activities

This list is not exhaustive. For general information about the allowability of particular items of costs, please see 2 CFR Part 200, “Subpart E - Cost Principles”, or direct specific inquiries to the NRCS administrative contact identified in the award.

III. CONFIDENTIALITY

- a. Activities performed under this award may involve access to confidential and potentially sensitive information about governmental and landowner issues. The term “confidential information” means proprietary information or data of a personal nature about an individual, or information or data submitted by or pertaining to an organization. This information must not be disclosed without the prior written consent of NRCS.
- b. The recipient’s personnel will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, 5 U.S.C. Section 552a, and implementing regulations and policies with respect to systems of records determined to be subject to the Privacy Act. The recipient’s personnel must also comply with privacy of personal information relating to natural resources conservation programs in accordance with section 1244 of Title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171).
- c. The recipient agrees to comply with NRCS guidelines and requirements regarding the disclosure of information protected under Section 1619 of the Food, Conservation, and Energy Act of 2008 (PL 110-246), 7 U.S.C. 8791.
- d. The recipient agrees to comply with the **“Prohibition Against Certain Internal Confidentiality Agreements:”**
 1. You may not require your employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting them from lawfully reporting that waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.
 2. You must notify your employees, contractors, or subrecipients that the prohibitions and restrictions of any internal confidentiality agreements inconsistent with paragraph (1) of this award provision are no longer in effect.
 3. The prohibition in paragraph (1) of this award provision does not contravene requirements applicable to any other form issued by a Federal department or agency governing the nondisclosure of classified information.
 4. If NRCS determines that you are not in compliance with this award provision, NRCS:
 - a. Will prohibit your use of funds under this award, in accordance with sections 743 and 744 of Division E of the Consolidated Appropriations Act, 2016, (Pub. L. 114-113) or any successor provision of law;
 - b. May pursue other remedies available for your material failure to comply with award terms and conditions.

IV. PRIOR APPROVAL REQUIREMENTS

The following are the most common situations requiring prior approval. However, the recipient is also bound by any other prior approval requirements of the applicable administrative provisions and Federal cost principles.

- a. Purpose or Deliverables.—When it is necessary for the recipient to modify the purpose or deliverables, the recipient must submit a written request and justification for the change along with the revised purpose or deliverables of the award to the NRCS administrative contact. The request should contain the following:
 1. Grant or agreement number
 2. Narrative explaining the requested modification to the project purpose or deliverables

3. A description of the revised purpose or deliverables
 4. Signatures of the authorized representative, project director, or both
- b. Subcontractual Arrangement.—The recipient must submit a justification for the proposed subcontractual arrangements, a statement of work to be performed, and a detailed budget for the subcontract to the NRCS administrative contact. Subcontractual arrangements disclosed in the application do not require additional postaward approval.
- c. Absence or Change in Project Leadership.—When a project director or the person responsible for the direction or management of the project—
1. Relinquishes active direction of the project for more than 3 consecutive months or has a 25 percent or more reduction in time devoted to the project, the grantee must notify the NRCS administrative contact in writing, identifying who will be in charge during the project director’s absence. The notification must include the qualifications and the signature of the replacement, signifying his or her willingness to serve on the project.
 2. Severs his or her affiliation with the grantee, the grantee’s options include—
 - i. Replacing the project director. The grantee must request written approval of the replacement from the NRCS administrative contact and must include the qualifications and the signature of the replacement signifying his or her willingness to serve on the project.
 - ii. Subcontracting to the former project director’s new organization. The grantee must request approval from the administrative contact to replace the project manager and retain the award, and to subcontract to the former project director’s new organization certain portions of the project to be completed by the former project director.
 - iii. Relinquishing the award. The grantee must submit to the NRCS administrative contact a signed letter by the grantee and the project director that indicates that the grantee is relinquishing the award. The letter must include the date the project director is leaving and a summary of progress to date. A final Standard Form (SF) 425 reflecting the total amount of funds spent by the recipient must be attached to the letter.
 3. Transfers the award to his or her new organization, the authorized organization’s representative at the new organization must submit the following to the NRCS administrative contact as soon as the transfer date is firm and the amount of funds to be transferred is known:
 - i. The forms and certifications included in the application package
 - ii. A project summary and work statement covering the work to be completed under the project (deliverables and objectives must be the same as those outlined in the approved proposal)
 - iii. An updated qualifications statement for the project director showing his or her new organizational affiliation
 - iv. Any cost-sharing requirements under the original award transfer to the new institution; therefore, cost-sharing information must be included in the proposal from the new organization
- Note:** The transfer of an award from one organization to another can take up to 90 days to accomplish, which may result in a delay in the project director resuming the project at the new organization.
- d. Budget Revisions.—Budget revisions will be in accordance with 2 CFR Part 200.308.

- e. No-Cost Extensions of Time.—When a no-cost extension of time is required, the recipient must submit a written request to the NRCS administrative contact no later than 30 days before the expiration date of the award. The request must contain the following:
 - The length of additional time required to complete the project and a justification for the extension
 - A summary of progress to date
 - An estimate of funds expected to remain unobligated on the scheduled expiration date
 - A projected timetable to complete the portions of the project for which the extension is being requested
 - Signature of the grantee and the project director
 - A status of cost sharing to date (if applicable)

Note: An extension will not exceed 12 months. Only in exceptional cases will more than one extension be granted. Requests for no-cost extensions received after the expiration of the award will not be granted.

V. PAYMENTS

- a. Payment by NRCS to the entity will be made monthly or quarterly (whichever is mutually agreed upon by both parties) on a reimbursable or advanced basis upon completion of work outlined herein. Payment will be executed upon the submission of a properly executed form SF-270. The SF-270 must cite the agreement number, remittance address, and billing period. The SF-270 must be sent to the NRCS administrative contact at the following email address EastAgmtPayRequest@wdc.usda.gov
- b. Unless otherwise specified in the award, the recipient must receive payments through electronic funds transfers.
- c. Recipients requesting advances should request payments in amounts necessary to meet their current needs pursuant to procedures contained in the Federal administrative provisions and **31 CFR Part 205**.
- d. The method of payment between the recipient and its contractors will be in accordance with the policies and procedures established by the recipient except that the contractors may not use the USDA Office of Financial Management/National Finance Center method to request payments. If the grantee makes advance payments to contractors, the grantee must ensure that the timing of such payments is designed to minimize elapsed time between the advance payment and the disbursement of funds. Payment requests from the grantee's contractors will not be sent to NRCS for review or approval.
- e. Accounting records for all costs incurred under this award must be supported by source documentation. Such documentation includes, but is not limited to, canceled checks, paid bills, payroll records, and subcontract award documents. Labor cost charges to this award must be based upon salaries actually earned and the time actually worked on this award. All project costs must be incurred within the approved project period of this award, including any approved no-cost extension of time. Costs that cannot be supported by source documentation or that are incurred outside of the approved project period and budget may be disallowed and may result in award funds being returned to the Federal Government by the recipient.

VI. FINANCIAL REPORTING

- a. Recipients must submit a Federal Financial Report (FFR), SF 425 and 425A, in accordance with the following schedule (recipients may download the applicable form at <http://www.forms.gov>):

| <u>Quarterly Schedule</u> | <u>Report Due Date</u> |
|---------------------------|------------------------|
| October 1 to December 31 | January 31 |
| January 1 to March 31 | April 30 |
| April 1 to June 30 | July 30 |
| July 1 to September 30 | October 30 |

Reports must be submitted on an accrual accounting basis. Failure to submit reports in accordance with the above schedule may result in suspension or termination of award.

- b. A final Report must be submitted no later than 90 days after the completion of the award. For final FFRs, reporting end date must be the end date of the project or agreement period. The reports should be submitted to the NRCS administrative contact identified in award notifications.

VII. PERFORMANCE MONITORING AND REPORTING

- a. The recipient is responsible for monitoring day-to-day performance and for reporting to NRCS. If the project involves subcontractual arrangements, the recipient is also responsible for monitoring the performance of project activities under those arrangements to ensure that approved goals and schedules are met.
- b. Every 6 months the recipient must submit a written progress report. Each report must cover—
 1. A comparison of actual accomplishments with the goals and objectives established for the reporting period and, where project output can be quantified, a computation of the costs per unit of output.
 2. The reasons why goals and objectives were not met, if appropriate.
 3. Additional pertinent information including, where appropriate, analysis and explanation of cost overruns or high unit cost.
- c. The recipient must submit a final performance report within 90 days after completion of project.

VIII. SPECIAL PROVISIONS

- a. The recipient assures and certifies that it will comply with the minimum-wage and maximum-hour provisions of the Federal Fair Labor Standards Act.
- b. Employees of NRCS will participate in efforts under this agreement solely as representatives of the United States. To this end, they may not participate as directors, officers, employees, or otherwise serve or hold themselves out as representatives of the recipient. They also may not assist the recipient with efforts to lobby Congress or to raise money through fundraising efforts. Further, NRCS employees must report to their immediate supervisor any negotiations with the recipient concerning future employment and must refrain from participation in efforts regarding such parties until approved by the agency.
- c. Employees of the recipient will not be considered Federal employees or agents of the United States for any purposes under this agreement.

IX. PATENTS, INVENTIONS, COPYRIGHTS, AND ACKNOWLEDGMENT OF SUPPORT AND DISCLAIMER

- a. Allocation of rights of patents, inventions, and copyrights must be in accordance with 2 CFR Part 200.315. This regulation provides that small businesses normally may retain the principal worldwide patent rights to any invention developed with USDA support.
- b. In accordance with 37 CFR Section 401.14, each subject invention must be disclosed to the Federal agency within 2 months after the inventor discloses it in writing to contractor personnel responsible for patent matters. Invention disclosure statements pursuant to 37 CFR Section 401.14(c) must be made in writing to:

Acquisitions Division
Grants and Agreements Team
1400 Independence Avenue, SW.
Room 6823 South Building
Washington, DC 20250

- c. USDA receives a royalty-free license for Federal Government use, reserves the right to require the patentee to license others in certain circumstances, and requires that anyone exclusively licensed to sell the invention in the United States must manufacture it domestically.
- d. The following acknowledgment of NRCS support must appear in the publication of any material, whether copyrighted or not, and any products in electronic formats (World Wide Web pages, computer programs, etc.) that is substantially based upon or developed under this award:
 - “This material is based upon work supported by the Natural Resources Conservation Service, U.S. Department of Agriculture, under number [recipient should enter the applicable award number here].”

In addition, all publications and other materials, except scientific articles or papers published in scientific journals, must include the following statement:

- “Any opinions, findings, conclusions, or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Agriculture.”
- e. All publications printed with Federal Government funds will include the most current USDA nondiscrimination statement, available from the Public Affairs Division, Civil Rights Division, or on the USDA and NRCS home pages. If the material is too small to permit the full nondiscrimination statement to be included, the material must, at a minimum, include the statement:
 - “USDA is an equal opportunity provider and employer.” Any publication prepared with funding from this agreement must include acknowledgement to USDA, Natural Resources Conservation Service.”

The recipient is responsible for ensuring that an acknowledgment of NRCS is made during news media interviews, including popular media such as radio, television, and news magazines, that discuss in a substantial way work funded by this award.

X. COST-SHARING REQUIREMENTS

- a. If the award has specific cost-sharing requirements, the cost-sharing participation in other projects may not be counted toward meeting the specific cost-share requirement of this award,

and must come from non-Federal sources unless otherwise stated in the applicable program announcement.

- b. Should the recipient become aware that it may be unable to provide the cost-sharing amount identified in this award, it must—
 - 1. Immediately notify the NRCS administrative contact of the situation.
 - 2. Specify the steps it plans to take to secure replacement cost sharing.
 - 3. Indicate the plans to either continue or phase out the project in the absence of cost sharing.
- c. If NRCS agrees to the organization's proposed plans, the recipient will be notified accordingly. If the organization's plans are not acceptable to NRCS, the award may be subject to termination. NRCS modifications to proposed cost sharing revisions are made on a case-by-case basis.
- d. Failure by the recipient to notify NRCS in accordance with paragraph (b) above may result in the disallowance of some or all the costs charged to the award, the subsequent recovery by NRCS of some of the NRCS funds provided under the award, and possible termination of the award, and may constitute a violation of the terms and conditions of the award so serious as to provide grounds for subsequent suspension or debarment.
- e. The recipient must maintain records of all project costs that are claimed by the recipient as cost sharing as well records of costs to be paid by NRCS. If the recipient's cost participation includes in-kind contributions, the basis for determining the valuation for volunteer services and donated property must be documented.

XI. PROGRAM INCOME

Income derived from patents, inventions, or copyrights will be disposed of in accordance with the recipient's own policies. General program income earned under this award during the period of NRCS support must be added to total project funds and used to further the purpose and scope of this award or the legislation under which this award is made.

XII. NONEXPENDABLE EQUIPMENT

Recipients purchasing equipment or products with funds provided under this award are encouraged to use such funds to purchase only American-made equipment and products. Title to nonexpendable equipment purchased with award funds will vest in the recipient upon completion of the award project and acceptance by NRCS of required final reports. When equipment is no longer needed by the recipient and the per-unit fair market value is less than \$5,000, the recipient may retain, sell, or dispose of the equipment with no further obligation to NRCS. However, if the per-unit fair market value is \$5,000 or more, the recipient must submit a written request to the NRCS administrative contact for disposition instructions.

XIII. LIMIT OF FEDERAL LIABILITY

The maximum financial obligation of NRCS to the recipient is the amount of funds indicated in the award as obligated by NRCS. However, in the event that an erroneous amount is stated on the approved budget, or any supporting document relating to the award, NRCS will have the unilateral right to make the correction and to make an appropriate adjustment in the NRCS share of the award to align with the Federal amount authorized.

XIV. MODIFICATIONS AND TERMINATIONS

NRCS may amend or modify the award through an exchange of correspondence between authorized officials of the recipient and NRCS. The award is subject to termination if NRCS determines that the

recipient has failed to comply with the terms and conditions of the award. In the event that the award is terminated, the financial obligations of the parties will be those set forth in 2 CFR Part 200.339.

XV. AWARD CLOSEOUT

Award closeout is the process by which NRCS determines that all required project activities have been performed satisfactorily and all necessary administrative actions have been completed.

Exhibit C: Proposed Peoria Property(s)

Current Selection: 1015 SW Reed Ave. (PIN 18-09-305-019)



Exhibit C: Proposed Peoria Property(s)

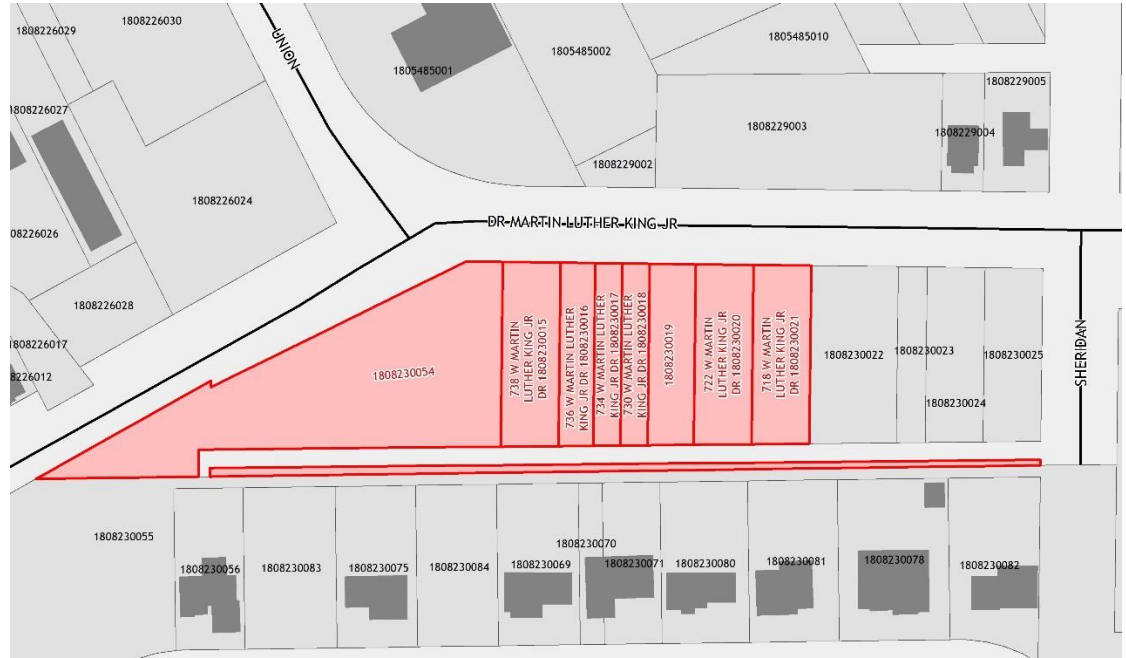
Additional Options to be considered:

3002 W. Trewyn Ave. (PIN 18-19-104-014)



Exhibit C: Proposed Peoria Property(s)

718 – 738 W. Dr. Martin Luther King, Jr. Dr. (PINs 18-08-230-021, -020, -019, -018, -017, -016, -015, 18-08-230-054)



1300-1322 W Dr. Martin Luther King, Jr. Drive (at W. Third Street), corner plus ROW/easement (PINs 18-08-185-001, -002, -003, -004, -005, -006, -007, -008, -009, -010)

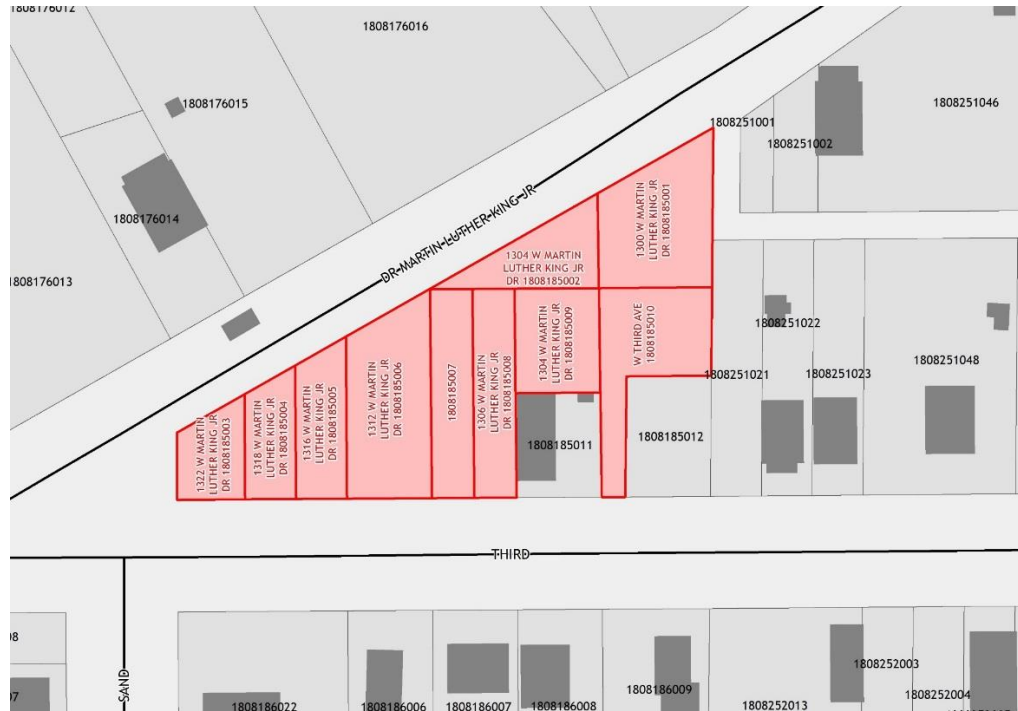


Exhibit C: Proposed Peoria Property(s)

Vacant lot across from 400 N. Hightower Street (north of W. John Gwynn Jr. Avenue) (PIN 18-09-153-027)

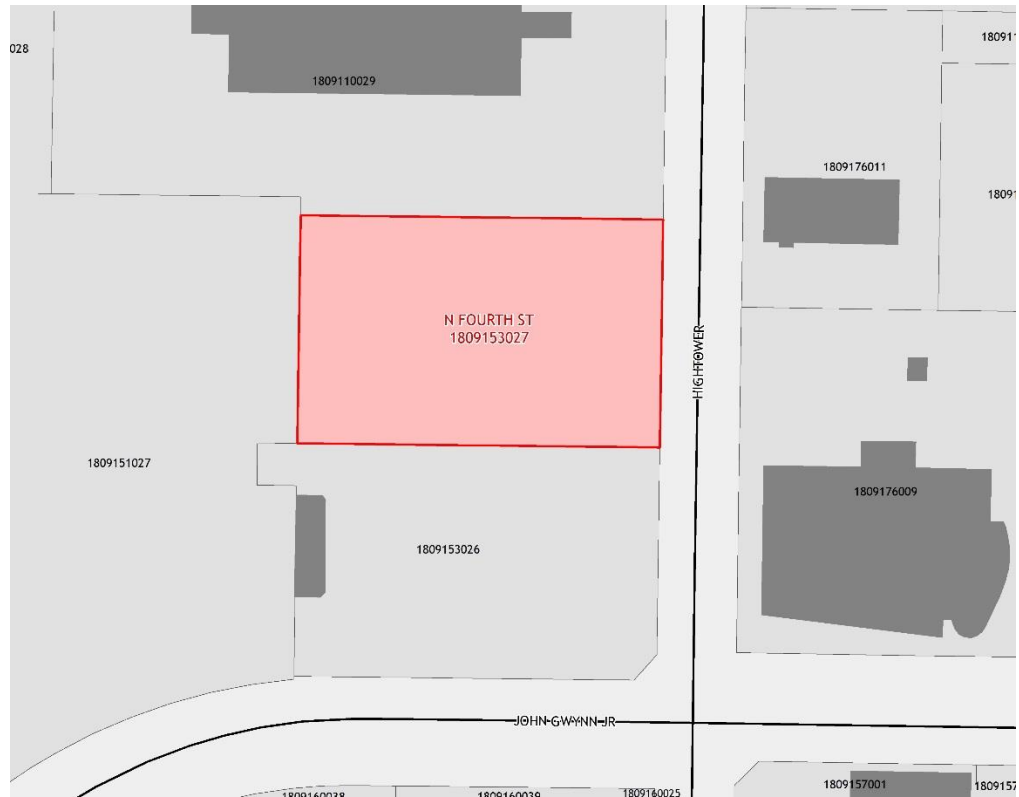


Exhibit D: Letter of Support



May 10, 2016

Mike Bennett
National CIG Program Manager
1400 Independence Avenue SW, Room 6141-S
Washington, DC 20250

Dear Mr. Bennett,

I am thrilled to write this letter to express my full support for the USDA NRCS Conservation Innovation Grant application submitted by Fresh Coast Capital and partners including AKRF, the City of Peoria, and gitm Foundation (Gifts in the Moment). I am excited by the potential that the collaborative effort of installing green infrastructure for revenue generation and stormwater management offers the City for its future community development, economic development, and stormwater compliance.

The City of Peoria is located on the Illinois River roughly half-way between Chicago and St. Louis and is home to over 115,000 residents. Peoria boasts a natural and cultural history that has created a rich story tied to its unique ecology and global agricultural significance. Peoria's geographical conditions make it an ideal location for the use green infrastructure solutions.

The City of Peoria has a combined sewer system and is negotiating a consent decree that, if approved, would allow for the nation's first 100% green stormwater infrastructure compliance plan. Key decision makers from the City have recently met with Fresh Coast Capital to understand their work and discuss potential partnerships. The City has indicated that securing grant funding would enable Fresh Coast Capital to move forward with a pilot, absent funding from potential future wet weather management funding sources.

If we were to be awarded this grant, we understand that our role on the team would include providing staff support of the contract with Fresh Coast Capital and their engineering partners, community outreach, site selection, site design approval, maintenance and monitoring plan approvals, some oversight of the third party evaluator, supporting data to develop cost savings materials, and supporting any reporting requirements for this grant. While Fresh Coast will be the lead for these and other activities, we understand that our role will be vital to the success of this program and we are committed to support these activities.

If this project is funded, I will act as a partner to this team and provide support to the activities of the project as described above. Our total in-kind contributions for this partnership are estimated at \$295,000 and include the following.

- The approximately 1.6 acre property located on Reed Avenue that was identified for the siting of these projects, with an estimated fair market value of \$279,000
- Staff time in support of the project estimated at \$16,000