



Brainerd City Council Agenda Request

Requested Meeting Date:

Title of Item:

<input type="checkbox"/> INFORMATION ONLY <input type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> P&F COMMITTEE <input type="checkbox"/> SPW COMMITTEE <input type="checkbox"/> MAIN AGENDA	Action Requested: <input type="checkbox"/> Approve/Deny Motion <input type="checkbox"/> Adopt Resolution (attach draft) *provide copy of published hearing notice <input type="checkbox"/> Direction Requested <input type="checkbox"/> Discussion Item <input type="checkbox"/> Hold Public Hearing* <input type="checkbox"/> Ordinance 1 st Reading
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: Is there a cost associated with this request: <input type="checkbox"/> Yes <input type="checkbox"/> No What is the total cost, with tax and shipping \$ _____ Is this budgeted? <input type="checkbox"/> Yes <input type="checkbox"/> No <u>Please Explain:</u>	

SOURCEWELL COMMUNITY DEVELOPMENT AND PLANNING SHARED SERVICES AGREEMENT

This Shared Services Agreement (Agreement) is made effective upon execution by all parties (“Effective Date”), by and between Sourcewell, located at 202 – 12th Street NE, PO Box 219, Staples, MN 56479, and the City of Brainerd (“Community”) located at 501 Laurel Street, Brainerd, MN 56401. Sourcewell and Community shall be known collectively as the “Parties”.

ARTICLE I: PURPOSE AND INTENT

- 1.1 **Purpose.** Sourcewell and Community agree that the purpose of this Agreement is to outline the Parties’ responsibilities with respect to Community’s purchase of Community Development and Planning services from Sourcewell.

ARTICLE 2: SCOPE OF SERVICES

- 2.1 **Services.** Community shall purchase Community Development and Planning services from Sourcewell, and Sourcewell shall furnish a Community Development Specialist to perform such services for Community. Said Community Development Specialist shall be employed by Sourcewell and supervised by Sourcewell’s Community Solutions Manager. Sourcewell reserves the right to assign any Community Development Specialist on its staff and to provide an alternative Community Development Specialist as needed to fulfill its obligations under this Agreement.
- 2.2 **Scope of Work.** During the term of this Agreement, the Community Development Specialist shall assist Community in advancing its planning goals and actions as set forth in Community’s planning documents, including its Mississippi River Partnership Plan, Comprehensive Plan, and Non-Motorized Transportation Plan.

During the term of this Agreement, the Community Development Specialist shall provide additional services related to various planning functions, which may include, but not limited to:

- Identify implementation strategies, benchmarks, and metrics for project initiatives
- Presentations to various boards, commissions, and committees to advance project initiatives and actions within the plan(s)
- Formulate new projects and partnerships to achieve action items within the plan(s)
- Engage the community through various means and methods to gather input
- Develop reports, studies, research, and other special assignments
- Attend meetings of various boards, commissions, and committees pertinent to planning efforts
- Work with Community Development Director to identify appropriate funding sources

- Aid in the development of grant applications with the Community Development Director
- 2.3 Availability and Location. The Community Development Specialist shall provide the agreed upon services on a remote basis up to ten (10) hours per week. The Specialist may be available for onsite office hours and to attend Community meetings and forums, as appropriate. Such time shall be within the ten (10) hours per week allotment. However, Sourcewell may offer additional in-kind service hours at no charge.
- 2.4 Additions and Modifications. Any modification this Agreement must be mutually agreed upon between the Parties. If the modification will result in a change to material terms in this Agreement, including, but not limited to, the term, time or location in which the Specialist shall be available, or compensation, the modification shall be in writing and signed by the Parties.

ARTICLE 3: PAYMENT FOR SHARED SERVICES

- 2.5 Fees. Sourcewell shall provide the above-described services at a rate of \$ 50.00 per hour, billed in 15-minutes increments. The total annual cost to Community shall not exceed \$26,000.00. Sourcewell staff reserves the right to bill on-site meetings/visits after 5:00pm with a 2-hour minimum.
- 3.1 Billing and Payment. Sourcewell shall submit a monthly invoice to Community for services rendered. Invoices are due upon receipt by Community.
- 3.2 Expenses. Sourcewell shall pay all employment-related expenses for the Planning and Community Development Specialist, including salary, benefits, travel expenses, and training.
- 3.3 Limitation. Sourcewell shall not impose costs and fees other than those outlined above.

ARTICLE 4: TERM AND TERMINATION

- 4.1 Term. This Agreement will commence on the Effective Date and shall continue for and a term of one (1) year.
- 4.2 Termination for Convenience. Either party may terminate this Agreement at any time upon sixty (60) days' written notice to the other party. Termination pursuant to this Section does not relieve Sourcewell of its obligations to complete any open services. Nor will Community be relieved of its obligation to pay for such open services.
- 4.3 Termination for Cause. Either party may terminate this Agreement upon written notice of material breach to the other Party provided the other Party does not cure the breach within thirty (30) calendar days of receiving the notice. The notice must describe the

breach in reasonable detail and state the non-breaching Party's intent to terminate the Agreement.

- 4.4 Survival. Notwithstanding any expiration or termination of this Agreement, all payment obligations incurred prior to expiration or termination, and Articles 4, 5, and 6 will survive. All other rights granted under this Agreement shall cease.

ARTICLE 5: DATA AND MATERIALS

- 5.1 Government Data. The Parties acknowledge that each is subject to the Minnesota Government Data Practices Act (MGDPA) at Minnesota Statutes, Chapter 13. The Parties further acknowledge that any data collected, created, received, maintained or disseminated in conjunction with this Agreement is collected, created, received, maintained, or disseminated for Community's benefit and is the sole property of Community.

5.1.1 Community shall be responsible for ensuring government data related to this Agreement is appropriately classified, categorized, and inventoried as required by the MGDPA, for protecting such data in accordance with the Act, and for responding to any related public data requests.

5.1.2 Sourcewell shall restrict access to Community's government data to staff whose work assignments reasonably require such access, and it shall take reasonable measures to protect Community's data during the term of this Agreement. Upon expiration or termination of this Agreement, Sourcewell shall return or destroy Community's data except to the extent that such data must be retained to satisfy auditing or statutory requirements.

- 5.2 Work Product. The Parties acknowledge that any reports, exhibits, models, graphics, computer files, maps, charts, and supporting documentation (Materials) developed or used in conjunction with this Agreement are generated for Community's benefit and are the sole property of Community.

5.2.1 Community shall use all Materials only for the purpose for which they were prepared. If the Materials are used for any other purpose, Community shall indemnify and hold Sourcewell harmless for such reuse.

5.2.2 Notwithstanding the foregoing, Sourcewell may maintain and reuse standard details related to this Agreement in the normal course of its business.

- 5.3 Audit and Record Disclosure. Pursuant to Minn. Stat. § 16C.05, subd. 5, Sourcewell acknowledges that the books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by Community, the State Auditor, and other duly authorized entities. For that purpose, Sourcewell shall maintain these and other related records for a period of six (6) years after the date of

termination of this Agreement. This Section does not apply to government data generated or used solely for Community's benefit and, therefore, owned by Community as outlined above.

ARTICLE 6: GENERAL TERMS AND CONDITIONS

- 6.1 **Subcontracting.** Sourcewell shall not enter into any subcontract for performance of any services under this Agreement without the prior written approval from Community.
- 6.2 **Notices.** All notices, invoices, and statements (Notice) related to this Agreement must be in writing. Notice of termination shall be delivered in person or mailed to the intended recipient at its current address. All other correspondence or communication may be mailed, hand delivered, or sent via fax or email to the other Party.
- 6.2.1 Each Party shall notify the other of any change to contact information, including address, telephone number, point of contact, and email address.
- 6.2.2 Notice will be deemed to have been given: (a) when delivered in person during normal business hours; (b) upon confirmation of receipt when transmitted by facsimile or electronic mail; (c) upon receipt when sent by registered or certified mail, postage prepaid; or (d) on the date of receipt if transmitted by national overnight courier with confirmation of delivery.
- 6.3 **Governing Law, Jurisdiction and Attorney's Fees.** This Agreement shall be interpreted and construed in accordance with the laws of the State of Minnesota. Any dispute arising out of this Agreement shall be adjudicated in a Minnesota court of competent jurisdiction. In any action or proceeding to enforce rights under this Agreement, the prevailing Party shall be entitled to recover costs and reasonable attorney's fees from the other Party.
- 6.4 **Assignment.** Neither Party shall have the right to assign or otherwise transfer its rights and obligations under this Agreement without prior written consent from the other Party. If assignment is permitted, any successor in interest shall acquire the assigning Party's entire interest in this Agreement. Any prohibited assignment shall be invalid.
- 6.5 **Relationship.** Each Party is an independent entity under the terms of this Agreement. Neither Party will have any right, power, or authority to act or create any obligation on behalf of the other Party. Except as otherwise provided, all operational expenses incurred by either Party will be borne by the Party incurring the expense.
- 6.6 **Hold Harmless.** Each party shall hold the other harmless from any claims and demands that may result from their negligence in connection with their duties and responsibilities under this Agreement, unless such action is a result of intentional wrongdoing by the other party. Each party shall be responsible for its own acts to the extent authorized by

law and shall not be responsible for the acts of the other party and the results thereof. Sourcewell's responsibility shall be governed by the Minnesota Statutes, Chapter 466.

- 6.7 Limitations of Liability. Excepting the Parties' indemnification obligations hereunder, neither party shall be liable to the other for any punitive, special, incidental or consequential damages including but not limited to: compensation or damages for loss of present or prospective profits or revenues, loss of actual or anticipated commissions on sales or anticipated sales, or expenditures, investments or commitments made in connection with the establishment, development or maintenance of the selling representation created by this Agreement or in connection with the performance of obligations regardless of the form of action, whether in contract, tort or other legal theory. The foregoing limitation shall apply: (a) even if such party has been advised of the possibility of such damages; and (b) notwithstanding any failure of essential purpose of any limited remedy herein.
- 6.8 Insurance. Sourcewell agrees to provide a minimum of one million dollars (\$1,000,000.00) per occurrence in general liability insurance with excess umbrella coverage of two million dollars (\$2,000,000.00) for Sourcewell staff assigned to provide services in conjunction with this Agreement.
- 6.9 Force Majeure. The Parties shall each be excused from performance under this Agreement while and to the extent that either of them are unable to perform for any cause beyond its reasonable control. Such causes shall include, but not be restricted to fire, storm, flood, earthquake, explosion, war, failure of transportation or delivery facilities, raw materials or supplies, interruption of utilities or power, and any act of government or military authority. In the event either party is rendered unable to carry out its obligations under this Agreement, that party shall give written notice to the other including an explanation of the circumstances.
- 6.10 Binding Effect. This Agreement binds and inures to the benefit of the Parties and their respective successors and permitted assigns.
- 6.11 Entire Agreement. The individuals signing this Agreement hereby represent that they are authorized to execute this Agreement on behalf of their respective organizations, and the Agreement contains the entire understanding between the Parties concerning the subject matter.
- 6.12 Severability. In the event that any terms of this Agreement are in conflict with or are otherwise unenforceable under any rule, law, or statutory provision, such terms shall be deemed stricken from this Agreement, but such invalidity or unenforceability shall not invalidate any other terms of the Agreement unless the invalidity or unenforceability of such provisions substantially harms, compromises an integral part of, or are otherwise inseparable from the remainder of this Agreement.

- 6.13 Waiver. Failure by either party to take action or assert any right hereunder shall not be deemed a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right.
- 6.14 Execution and Delivery of Documents. Each of the parties hereto, his or her heirs, legal representatives, successors, and assigns shall do all things to execute and deliver any documents necessary, at any time, to carry out and effectuate the terms and conditions of this Agreement.

ARTICLE 7: AGREEMENT

IN WITNESS THEREOF, Community and Sourcewell have executed this Agreement as of the date hereof.

Sourcewell

City of Brainerd

By _____

By _____

Authorized Signature-**Signed**

Authorized Signature-**Signed**

Name **Anna Gruber**

Name _____

Title Manager, Community Solutions

Title _____

Date _____

Date _____