

**STATE OF MINNESOTA
GRANT AGREEMENT
Federal Sub-Award Agreement
Project #**

This grant agreement is between the State of Minnesota, acting through its Commissioner of Natural Resources ("State") and GRANTEE ORGANIZATION, DUNS #, ADDRESS, CITY, STATE, ZIP CODE ("Grantee").

Recitals

1. Under Recreational Trail Program (F RTP), United States Department of Transportation, Federal Highway Administration, CFDA #20.219, TRAL 022, the State received a federal award of \$2,718,235, of which \$AMOUNT AWARDED was sub-awarded to the Grantee DUNS # on September 27, 2016 for PROJECT SUMMARY and as provided in Minnesota Statutes, section 84.026. This project is not a research and development project.
2. The State sub-awards to the Grantee for the purpose of conducting the program entitled PROJECT NAME in the approved Project Scope and Budget that is attached hereto as Attachment "A" which is incorporated by reference.
3. The Grantee represents that it is duly qualified and agrees to perform all services described in this grant agreement to the satisfaction of the State.

Grant Agreement

1. Term of Grant Agreement

- 1.1. **Effective date:** This agreement becomes effective on **enter date** or the date the State obtains all required signatures under Minnesota Statutes 16B.98, subdivision 5, whichever is later. **The Grantee must not begin work under this sub-grant agreement until this agreement is fully executed and the Grantee has been notified by the State's Authorized Representative to begin the work.** No reimbursements will be made until or upon the date that the final required signature is obtained by the State, pursuant to [Minnesota Statutes Section 16B.98, subdivision 5](#). Per [Minnesota Statutes Section 16B.98, subdivision 7](#), no payments will be made to the Grantee until this grant agreement is fully executed.
- 1.2. **Expiration date:** The contract shall remain in effect until June 30, 2018, or until all obligations have been satisfactorily fulfilled, whichever occurs first.
- 1.3. **Survival of Terms:** The following clauses survive the expiration or cancellation of this grant agreement: 9 Liability; 10 Audits; 11 Government Data Practices and Intellectual Property; 13 Endorsement; 14 Governing Law, Jurisdiction, and Venue; 16 Data Disclosure; 19 Monitoring; and 24 Additional Program Requirements.

2. Grantee's Duties

The Grantee, who is not a state employee, will:

The Grantee will comply with required grants management policies and procedures set forth through [Minnesota Statutes Section 16B.97](#), subdivision 4 (a) (1).

The Grantee shall operate the Project or cause it to be operated as outlined in the approved Project Scope and Budget that is attached hereto as Attachment "A" which is incorporated by reference. The Grantee agrees to complete the Project in accordance with the approved budget to the extent practicable and within the program period specified in the grant agreement. Any material change in the grant agreement shall require an amendment by the State (see Section 7.2). The application has been approved by the Grantee's appropriate governing entity as evidenced by Attachment "B" which is attached hereto and incorporated by reference herein.

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

The Grantee is responsible for maintaining a written conflict of interest policy. Throughout the term of this agreement, the Grantee shall monitor and report any actual, potential, or perceived conflicts of interest to the State's Authorized Representative.

3. Time

The Grantee must comply with all the time requirements described in this grant agreement.

4. Consideration and Payment

4.1. **Consideration.** Consideration for all services performed by Grantee pursuant to this grant agreement shall be paid by the State as follows:

4.1.1. **Compensation.** Compensation in an amount not to exceed \$AMOUNT AWARDED, based on the following computation: See Attachment A Project Scope and Budget.

4.1.2. **Matching Requirements.** Grantee certifies that the following matching requirement for the grant will be met by GRANTEE ORGANIZATION NAME. The total project cost is (enter total cost). Grantee agrees to match at least (enter Match Amount) of this project cost.

The State shall disburse funds to the Grantee pursuant to this agreement on a reimbursement basis not to **exceed seventy-five (75) percent** of its eligible costs, as described in Section 24.

THE TOTAL STATE OBLIGATION FOR ALL COMPENSATION AND REIMBURSEMENTS TO GRANTEE SHALL NOT EXCEED: AMOUNT AWARDED.

Funds made available pursuant to this Agreement shall be used only for expenses incurred in performing and accomplishing the purposes and activities specified herein. Notwithstanding all other provisions of this Agreement, it is understood that any reduction or termination of funds allocated to the State may result in a like reduction to the Grantee.

4.2. Payment.

The State shall disburse funds to the Grantee pursuant to this agreement **on a reimbursement basis**. The Grantee shall submit payment requests with required expenditure documentation. If necessary, advance payments on grants shall be negotiated between the State and Grantee on a case by case basis. In order to make advance payments, the Grantee must prepare and submit a written justification to the State for approval that details the specific need to utilize advance payments. A copy of the signed justification must be maintained in the grant file. All advance payments on grants over \$50,000 must be reconciled within 12 months of issuance or within 60 days of the end of the grant period.

4.2.1. **Federal funds.** Payments under this grant agreement will be made from federal funds obtained by the State through Federal Recreational Trail Program, CFDA number 20.219 of the Moving Ahead for Progress in the 21st Century (MAP-21) Act of 2012. The Grantee is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Grantee's failure to comply with federal requirements. The Grantee agrees to perform this agreement in accordance with the Recreational Trails Program, 23 U.S.C. 206, the provisions and conditions of the FHWA's Guidelines.

5. Conditions of Payment

All services provided by the Grantee under this grant agreement must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations including the Project Environmental Assessment has been approved. The Grantee will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

6. Authorized Representative

The State's Authorized Representative is Daniel Golner, Trail Grant Coordinator, Division of Parks and Trails, Department of Natural Resources, 500 Lafayette Road, Box 39, St. Paul, MN 55155-4052, Daniel.Golner@state.mn.us, 651-259-5599 or his/her successor, and has the responsibility to monitor the Grantee's performance and the authority to accept the services provided under this grant agreement. If the services are satisfactory, the State's Authorized Representative or his/her designee will certify acceptance on each invoice submitted for payment.

The Grantee Authorized Contact is CONTACT NAME, CONTACT TITLE, ORGANIZATION, ADDRESS, CITY, STATE, ZIP CODE, PHONE, EMAIL, or his/her successor. If the Grantee's Authorized Representative changes at any time during this grant agreement, the Grantee must immediately notify the State.

The Grantee Authorized Fiscal Agent is FISCAL NAME, TITLE, ORGANIZATION, ADDRESS, CITY, STATE, ZIP, PHONE, EMAIL, or his/her successor. If the Grantee's Authorized Representative changes at any time during this grant agreement, the Grantee must immediately notify the State.

If the Grantees Authorized Representatives changes at any time during this grant contract, the Grantee must immediately notify the State.

7. Assignment, Amendments, Waiver, and Grant Agreement Complete

- 7.1. **Assignment.** The Grantee may neither assign nor transfer any rights or obligations under this grant agreement without the prior consent of the State and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this grant agreement, or their successors in office.
- 7.2. **Amendments.** Any amendment to this grant agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original grant agreement, or their successors in office.
- 7.3. **Waiver.** If the State fails to enforce any provision of this grant agreement, that failure does not waive the provision or its right to enforce it.
- 7.4. **Grant Agreement Complete.** This grant agreement contains all negotiations and agreements between the State and the Grantee. No other understanding regarding this grant agreement, whether written or oral, may be used to bind either party.

8. Subcontractors, Contracting, and Bidding Requirements

- 8.1 The Grantee agrees that if it subcontracts any portion of this project to another entity, the agreement with the subcontractor will contain all provisions of the agreement with the State. The Grantee also agrees to comply with [Title 2 Code of Federal Regulations \(CFR\) 200.317](#) and [200.322](#) (if applicable-both apply to state entities only) as well as 2 CFR 200.318-321, and 2 CFR 200.323-326.
- 8.2 Per [Minnesota Statute 471.345](#), grantees that are municipalities as defined in Subd. 1 must follow that Uniform Municipal Contracting Law if contraction funds from this grant contract agreement for any supplies, materials, equipment, or the rental thereof, or the construction, alteration, repair, or maintenance of real or personal property.

If the amount of the contract is estimated to exceed \$100,000, a formal notice and bidding process must be conducted in which sealed bids shall be solicited by public notice. Municipalities may, as a best value alternative, award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in [Minnesota Statute 16C.28](#), Subd. 1, paragraph a, clause 2.

8.2.1 If the amount of the contract is estimated to exceed \$25,000, but not \$100,000, the contract may be made either upon sealed bids or by direct negotiation, by obtaining two or more quotations for the purchase or sale when possible, and without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof.

Municipalities may, as a best value alternative, award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in [Minnesota Statute 16C.28](#), Subd. 1, paragraph a, clause 2, and paragraph c.

8.2.2 If the amount of the contract is estimated to be \$3,000-25,000 (\$2,000 for acquisitions of construction that are subject to the [Davis-Bacon Act](#) and \$2,500 for the acquisition of services subject to the [Service Contract Act](#)) the contract may be made either upon quotation or in the open market, in the discretion of the governing body. If the contract is made upon quotation it shall be based, so far as practicable, on at least two quotations which shall be kept on file for a period of at least one year after their receipt. Alternatively, municipalities may award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in [Minnesota Statute 16C.28](#), Subd. 1, paragraph a, clause 2.

8.2.3 Any services and/or materials that are expected to cost less than \$3,000 (see 8.2.2 for thresholds regarding the Davis-Bacon and Service Contract Act) do not require the solicitation of competitive quotations in accordance with [2 CFR 200.320\(b\)](#). The Grantee must make an effort to equitably distribute these purchases.

8.2.4 Support documentation of the bidding process utilized to contract services must be included in the Grantee's financial records, including support documentation justifying a single/sole source bid, if applicable

8.2.5 For projects that include construction work of \$25,000 or more, prevailing wage rules apply per [Minnesota Statute 177.41](#) through [177.44](#) consequently, the bid request must state the project is subject to prevailing wage. These rules require that the wages of laborers and workers should be comparable to wages paid for similar work in the community as a whole. A prevailing wage form should accompany these bid submittals.

9. Liability

The Grantee must indemnify, save, and hold the State, its agents, and employees harmless from any claims or causes of action, including attorney's fees incurred by the State, arising from the performance of this grant agreement by the Grantee or the Grantee agents or employees. This clause will not be construed to bar any legal remedies the Grantee may have for the State's failure to fulfill its obligations under this grant agreement.

10. Audits (State and Single)

Under [Minn. Stat. §16B.98, subd. 8](#) and [2 CFR 200.331](#), the Grantee books, records, documents, and accounting procedures and practices relevant to this grant agreement are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this grant agreement.

All state and local governments, colleges and universities, and non-profit organizations that expend \$750,000 or more of Federal awards in a fiscal year must have a single audit according to the OMB Uniform Guidance: Cost Principles, Audit, and Administrative Awards Requirements for Federal Awards. This is \$750,000 total Federal awards received from all sources. If an audit is completed, forward a copy of the report to both the State's Authorized Representative and the State Auditor.

11. Government Data Practices and Intellectual Property

11.1 **Government Data Practices.** The Grantee and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State under this grant agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Grantee under this grant agreement. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this clause by either the Grantee or the State.

If the Grantee receives a request to release the data referred to in this clause, the Grantee must immediately notify the State. The State will give the Grantee instructions concerning the release of the data to the requesting party before the data is released.

11.2 **Intellectual Property Rights (if applicable).**

11.2.1 **Intellectual Property Rights.** The State owns any intellectual property developed with these funds. The federal awarding agency may receive royalty-free, non-exclusive and an irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so as noted in [2 CFR 200.315](#).

11.2.2 **Obligations.**

(A) **Notification.** Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Grantee, including its employees and subcontractors, in the performance of this contract, the Grantee will immediately give the State's Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure thereon.

(B) **Representation.** The Grantee must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of the State, and that neither Grantee nor its employees, agents, or subcontractors retain any interest in and to the Works and Documents. The Grantee represents and warrants that the Works and Documents do not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause 9, the Grantee will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the State, at the Grantee's expense, from any action or

claim brought against the State to the extent that it is based on a claim that all or part of the Works or Documents infringe upon the intellectual property rights of others. The Grantee will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Grantee's or the State's opinion is likely to arise, the Grantee must, at the State's discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.

12. Workers' Compensation

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

13. Endorsement

The Grantee must not claim that the State endorses its products or services and the Grantee must adhere to the terms of 2 CFR 200.315.

14. Governing Law, Jurisdiction, and Venue

Minnesota law, without regard to its choice-of-law provisions, governs this grant agreement. Venue for all legal proceedings out of this grant agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

15. Termination

The State may cancel this grant agreement at any time, with or without cause, upon 30 days written notice to the Grantee. Upon termination, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

16. Data Disclosure

Under Minn. Stat. § 270C.65, Subd. 3, and other applicable law, the Grantee consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Grantee to file state tax returns and pay delinquent state tax liabilities, if any.

17. American Disabilities Act

The Grantee is subject to complying with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 et seq.) and all applicable regulations and guidelines.

18. Reporting Requirements

The Grantee is bound to financial and performance reporting requirements as noted in the approved Project Scope and Budget that is attached hereto as Attachment "A".

19. Monitoring

The State shall be allowed at any time to conduct periodic site visits and inspections to ensure work progress in accordance with this grant agreement, including a final inspection upon program completion. At least one monitoring visit per grant period on all state grants of over \$50,000 will be conducted and at least annual monitoring visits on grants of over \$250,000.

Following closure of the program, the State's authorized representatives shall be allowed to conduct post-completion inspections of the site to ensure that the site is being properly operated and maintained and that no conversion of use has occurred.

20. Invasive Species Prevention

The DNR requires active steps to prevent or limit the introduction, establishment, and spread of invasive species during contracted work. The contractor shall prevent invasive species from entering into or spreading within a project site by cleaning equipment prior to arriving at the project site.

If the equipment, vehicles, gear, or clothing arrives at the project site with soil, aggregate material, mulch, vegetation (including seeds) or animals, it shall be cleaned by contractor furnished tool or equipment (brush/broom, compressed air or pressure washer) at the staging area. The contractor shall dispose of material cleaned from equipment and clothing at a location determined by the DNR Contract Administrator. If the material cannot be disposed of onsite, secure material prior to transport (sealed container, covered truck, or wrap with tarp) and legally dispose of offsite.

The contractor shall ensure that all equipment and clothing used for work in infested waters has been adequately decontaminated for invasive species (ex. zebra mussels) prior to being used in non-infested waters. All equipment and clothing including but not limited to waders, tracked vehicles, barges, boats, turbidity curtain, sheet pile, and pumps that comes in contact with any infested waters must be thoroughly decontaminated.

21. Pollinator Best Management Practices

Habitat restorations and enhancements conducted on DNR lands and prairie restorations on state lands or on any lands using state funds are subject to pollinator best management practices and habitat restoration guidelines pursuant to [Minnesota Statutes, section 84.973](#). Practices and guidelines ensure an appropriate diversity of native species to provide habitat for pollinators through the growing season. Current specific practices and guidelines to be followed for contract and grant work can be found here: [Link to December 2014 version](#).

22. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

- 22.1 The prospective lower tier participant certifies, by submission of this agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- 22.2 Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this agreement.

23. Whistleblower Protection Rights

Recipient Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights

- (a) This award and employees working on this financial assistance agreement will be subject to the whistleblower rights and remedies in the pilot program on Award Recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub.L. 112-239)
- (b) The Award Recipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712
- (c) The Award Recipient shall insert the substance of this clause, including this paragraph (c), in all sub awards or subcontracts over the simplified threshold. 42 CFR & 52.203-17 (as referenced in 42 CFR & 3.908-9)

24. Additional Program Requirements

The grantee must comply with (**insert additional program requirements, state and federal law requirements, requirements of the award, etc.**) as well as the terms and conditions for closeout of the sub-award.

- 24.1 Reimbursable Costs.
Eligible costs shall be those costs directly incurred by the Grantee in preparation of and the actual conduct of the Project. Eligible shall be based upon the approved Application and can include the following types of costs provided they are solely related to and necessary for the completion of the Project:
 - 24.1.1 Advertising costs solely for (1) Recruitment of personnel; (2) Solicitation of bids; and (3)

- Disposal of scrap materials;
- 24.1.2 Capital and labor expenditures for facilities, equipment and other capital assets and/or the maintenance of real or personal property which is the subject of the approved Application;
- 24.1.3 Communication costs incurred for telephone calls and postage;
- 24.1.4 Materials and supplies;
- 24.1.5 Freight transportation expenses; and
- 24.1.6 Professional services and administrative costs for the “Project” provided they do not exceed 20% of the total cost of the Project; and
- 24.1.7 Land (including permanent easements) whose value does a licensed appraiser establishes and whose conclusions of value are certified by the state.

Any cost not defined as an eligible cost or not included in the approved Application shall not be paid from the funds received by Grantee under this Agreement.

24.2 Non-reimbursable Costs.

Non-eligible costs for reimbursement means all costs not defined as eligible costs, including but not limited to the following that applies to sub-grantee and their associated trail club/organization or project partner:

- 24.2.1 Any expenditure that occurs before the effective date of this agreement;
- 24.2.2 Fund raising;
- 24.2.3 Taxes, except sales tax on goods and services;
- 24.2.4 Insurance, except title insurance;
- 24.2.5 Attorneys fees;
- 24.2.6 Loans, grants, or subsidies to persons or entities for development;
- 24.2.7 Bad debts, late payment fees, finance charges or contingency funds;
- 24.2.8 Interest, investment management fees;
- 24.2.9 Lobbyists;
- 24.2.10 Political contributions;
- 24.2.11 Wages and expenses of Grantee’s employees;
- 24.2.12 Fringe benefit costs of Grantee’s employees; and
- 24.2.13 Land appraisals;
- 24.2.14 Entertainment, gifts and prizes, food and refreshments;
- 24.2.15 Purchase of phones, computers, tablets or audiovisual equipment;
- 24.2.16 Memberships (including subscriptions and dues), publications, periodicals and other subscription fees
- 24.2.17 Agency advertising and marketing expenses
- 24.2.18 Office Rental Fees, and Overhead and Indirect Expenses (including, but not limited to office or storage space rental, utility expenses, copier rental, phone bills, office materials and supplies).

Attachments:

_____A. Project Scope and Budget

_____B. Resolution

DRAFT

1. STATE ENCUMBRANCE VERIFICATION

Individual certifies that funds have been encumbered as required by Minn. Statutes 16A.15 and 16B.98.

Signed: _____

Date: _____

SWIFT PO No. _____

2. GRANTEE

The Grantee certifies that the appropriate person(s) have executed the grant agreement on behalf of the Grantee as required by applicable articles, bylaws, resolutions, or ordinances.

By: _____

Title: _____

Date: _____

3. STATE AGENCY

By: _____
(with delegated authority)

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

DRAFT