

Amendment # 3 for Grant Agreement # 216874

Contract Start Date:	<u>October 11, 2022</u>	Total Contract Amount:	<u>\$108,182.00</u>
Original Contract Expiration Date:	<u>November 30, 2023</u>	Original Contract:	<u>\$100,000.00</u>
Current Contract Expiration Date:	<u>December 31, 2024</u>	Previous Amendment(s) Total:	<u>\$8,182.00</u>
Requested Contract Expiration Date:	<u>June 30, 2025</u>	This Amendment:	<u>\$0.00</u>

This amendment is by and between the State of Minnesota, through its Commissioner of Natural Resources, Division of Ecological and Water Resources, and Minnesota's Lake Superior Coastal Program ("STATE") and City of Duluth, 411 West First Street, Duluth MN 55802 ("GRANTEE").

Recitals

1. Under Coastal Zone Management Administration Awards, U.S. Department of Commerce; National Oceanic and Atmospheric Administration, CFDA 11.419, NA22NOS4190054, the State received a federal award on July 1, 2022 for Implementation of Minnesota's Lake Superior Coastal Program (Revised Attachment A.1, attached and incorporated into this grant contract agreement).
2. The State has a grant contract with the Grantee identified as 216874 to provide services for Minnesota's Lake Superior Coastal Program's FFY22 Task 306A-2: Minnesota Point Boardwalk and Dune Restoration.
3. The Grantee has submitted sufficient documentation to satisfy the requirements for National Environmental Policy Act (NEPA) and environmental consultation; and has received approval from NOAA and the State to expend funds for construction on the deck and staircase.
4. The State and Grantee have agreed that additional time will be necessary for the satisfactory completion of the agreement.
5. City of Duluth Resolution 25-0095R (Attachment G, attached and incorporated into this grant contract) empowers the Grantee to enter into this grant contract amendment.
6. The State and the Grantee are willing to amend the original grant contract as stated below.

Grant Contract Amendment

REVISION 1. Clause 1.2. "**Expiration Date**" is amended as follows:

- 1.2. *Expiration date.*** ~~November 30, 2023, December 31, 2024, June 30, 2025 or until all obligations have been satisfactorily fulfilled, whichever occurs first. or, in the event this grant contract agreement is continued by way of amendment or new agreement, the date the amendment or new agreement is fully executed, whichever is later.~~

REVISION 2. Clause 2. "**Grantee's Duties**" is amended as follows:

2. Grantee's Duties

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

- a) Comply with required grants management policies and procedures set forth through Minn.Stat. § 16B.97, Subd.4(a)(1).

- b) Perform the duties specified in the Project Description and Budget (Revised Attachment B.23, attached and incorporated into this grant contract agreement).
- c) Complete the project within the time frame specified and in accordance with the approved budget in the grant contract agreement. Any material change in the grant contract agreement will require an amendment by the State (see Section 7.2).
- d) Be responsible for the administration, supervision, management, record keeping, and project oversight required for the work performed under this agreement.
- e) Maintain a written conflict of interest policy (Attachment C, attached and incorporated into this grant contract agreement). Throughout the term of this agreement, the Grantee must monitor and disclose any actual or potential conflicts of interest to the State's Authorized Representative.
- f) Ensure that all work be conducted in accordance with appropriate Federal, Tribal, state, and local laws and will follow recognized best practices for minimizing impacts to the human and natural environment.
- g) Not conduct any work between the current contract expiration date and full execution of this amendment. The State will not reimburse any expenses incurred during this time.

REVISION 3. Clause 4.1. "**Consideration.**" is amended as follows:

- 4.1. **Consideration.** The State will pay for all services performed by Grantee under this grant contract agreement as follows:
- (A) **Compensation.** The Grantee will be paid \$108,182.00 according to the breakdown of costs contained in Revised Attachment B. .23.
 - (B) **Travel Expenses.** Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Grantee as a result of this grant contract agreement will not exceed \$0.00. The State will reimburse the Grantee for travel and subsistence expenses in the same manner and in no greater amount than provided in the current "[Commissioner's Plan](#)" promulgated by the Commissioner of Minnesota Management and Budget (MMB). The State will not reimburse for travel and subsistence expenses incurred outside Minnesota unless the Grantee has received the State's prior written approval for out of state travel.
 - (C) **Total Obligation.** The total obligation of the State for all compensation and reimbursements to the Grantee under this grant contract agreement will not exceed **\$108,182.00.**
 - (D) **Specific award conditions.**
The State and NOAA, Office for Coastal Management have reviewed and approved the project methods ([Attachment E.2](#), attached and incorporated into this grant contract). The Grantee is authorized to expend funds for construction of the boardwalk, ~~and~~ dune restoration, decking, and stairs at Lafayette Community Center. The Grantee must submit any changes to these methods to the State's Authorized Representative prior to construction.
The City is granted additional funds to complete a Phase 1 Archeological Survey (\$3,887) for the Area of Potential Effect and to compensate Fond du Lac Band of Lake Superior Chippewa for Tribal Monitors (\$4,295) to be onsite during shovel tests for the Survey as well as the ground disturbing activities during construction for the boardwalk at Lafayette.
 - (E) **Indirect Cost Rate.** The federal indirect cost rate for the State's federal award is 20.20%. The Grantee's indirect cost rate is 0% for this sub-award agreement. The State will accept the indirect cost rate negotiated with a federal agency, provided the agency approved the rate on or before the award end date.

- (F) **Matching Requirements.** The total project cost is \$214,258.00. Grantee will provide \$106,076.00 or 50% of project-related costs from non-federal sources, whichever is less.
- (G) **Budget Changes.** The Grantee is required to report deviations from the approved award budget. The Grantee may not create new budget categories without written approval. The Grantee must request approval for a budget change when the cumulative amount transfers exceed or is expected to exceed 10 percent of the total budget as last approved by the State.

REVISION 4. Clause 18.3. **"Final Report."** is amended as follows:

Final Report. The Grantee must submit a Final Report, which summarizes activities conducted during the entire award, and Products, as identified in Revised Attachment B.23, within thirty days of expiration (see Section 1).

Signatures:

1. STATE ENCUMBRANCE VERIFICATION

Individual certifies that funds have been encumbered as required by Minn. Stat. § 16A.15.

Signed: _____

Date: _____

SWIFT Contract/PO No(s). _____

2. GRANTEE

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

By: _____

Mayor (City Administrator, Matthew Staehling, per delegated authority)

Date: _____

Attest: _____

Ian B. Johnson, City Clerk

Date: _____

Countersigned: _____

Josh Bailey, City Auditor

Date: _____

Approved as to form: _____

Terri Lehr, City Attorney

Date: _____

3. STATE AGENCY

By: _____
(with delegated authority)

Title: _____

Date: _____

Distribution:

Agency

Grantee

State's Authorized Representative

Revised Attachment B.23: Project Description and Budget

US Department of Commerce, Financial Assistance Award

CFDA No. and Name: 11.419, Coastal Zone Management Administration Awards

Award Number: NA22NOS4190054

Recipient: Minnesota Department of Natural Resources

Title: Implementation of Minnesota's Lake Superior Coastal Program – FFY22

Federal Award Period: July 1, 2022 – June 30, 2025

Project Description

Task 306A-2: Minnesota Point Boardwalk and Dune Restoration

Project Number: 22-306A-02

Subrecipient: City of Duluth

Timeframe: October 2022 – ~~December 2024~~ June 2025

Minnesota Point in Duluth Minnesota is a unique and fragile environment. It is the only sandy beach and dunes on Lake Superior in Minnesota. On the dunes, vegetation is beachgrass and a patchy cover of shrubs, forbs, graminoids, and fruticose lichens. These species, including the beachgrass, only grow on Minnesota Point. People walking across the dunes disturb this fragile vegetation.

City of Duluth (subrecipient) will replace two deteriorated boardwalks that provide beach access across the Minnesota Point sand dunes in two locations: Lafayette Community Center and Park Point. The boardwalks, built to Americans with Disability Act standards, will provide access from the adjoining parking lots to the beach.

The City will replace the boardwalks with salvaged Ipe lumber re-claimed from the City's Lakewalk reconstruction projects. Ipe is a Brazilian Hardwood with an approximate 100-year life expectancy. It is naturally resistant to bugs, mold, and mildew as well as exceeds the Americans with Disabilities Act requirements for slip resistance when wet. The salvaged Ipe lumber is approximately 35 years old.

The finished boardwalks will include railings on both sides. After installed it will be covered with a UV Finisher specifically made for hardwood.

After completed, the City will close the social trails and replant with beachgrass. The beachgrass disturbed before and during construction will be replanted on the social trails. The City will install signage to direct users to the official dune crossings.

The City, with the DNR, will submit the 306A Questionnaire with supporting documentation for the boardwalk at Lafayette after completing the engineering designs in Outcome 1.

Task Outcomes

1. **Engineering Designs** - Complete engineering designs for the Park Point Recreation Area boardwalk.

Outcome End Date: December 2022

2. **Construct Boardwalk** - Using salvaged lumber, construct boardwalk at Lafayette Community Center. Boardwalk will extend from parking area to the beach, and include railings and signage.

Outcome End Date: December 2024

3. **Replant vegetation** - Restore the disturbed beachgrass and other native vegetation ~~on the social trails~~ on the site.

Outcome End Date: ~~December 2024~~ June 2025

4. **Phase 1 Archeological Survey** - Complete a Phase 1 Archeological Survey at in the Area of Potential Effects at Lafayette Community Center.

5. **Deck and Stairs** – reconstruct the deck and stairs that attach to the boardwalks using methods described in Attachment E.2.

Outcome End Date: June 2025

Products

- (photos of) boardwalk, deck, stairs and revegetation of beach grass at Lafayette Community Center

Budget (Task Funding)

Grant (federal): \$108,182.00
Match (non-federal): \$106,076.00
Total: \$214,258.00

Name	Grant	Match	Total
Personnel			
Fringe			
Travel			
Equipment			
Supplies		106,076	106,076
Subcontract	12,000		12,000
Construction	88,000		88,000
Other	8,182		8,182
Indirect			
Total	\$108,182	\$106,076	\$214,258

Budget Detail

Supplies: value of restored IPE lumber

Subcontract:

- Designs for boardwalk in Park Point Park - \$5,000
- Dune Restoration - \$7,000

Other: (Professional Service Agreements)

- Duluth Archeological Center for Phase 1 Archeological Survey - \$3,887
- Fond du Lac Band of Lake Superior Chippewa for Tribal Monitors to be present during onsite during the archeological survey and during ground disturbing activities of construction - \$4,295

Construction: City of Duluth equipment and personal to construct the boardwalk, deck, and stairs.

Attachment E.2: Additional Work

Task 306A-2: Minnesota Point Boardwalk and Dune Restoration

Project Number: 22-306A-02

Subrecipient: City of Duluth

Timeframe: October 2022 –December 2024 (requested June 2025)

Award Number: NA22NOS4190054

US Department of Commerce, Financial Assistance Award

CFDA No. and Name: 11.419, Coastal Zone Management Administration Awards

Recipient: Minnesota Department of Natural Resources

Title: Implementation of Minnesota's Lake Superior Coastal Program – FFY22

Federal Award Period: July 1, 2022 –June 30, 2025

The City of Duluth will replace the deck and stairs that connect to the (new) Boardwalks. The project will occur within the original footprint, at the Lafayette Community Center, 3016 Minnesota Ave, Duluth, MN 55802.

Methods

The current patio decking and access steps have deteriorated and the project proponents will replace the wooden frame and decking surface with like. They do not need to pour footings or otherwise disturb the ground to do so. While adjacent to the Lafayette Recreation Center, the patio is structurally independent of the building and would not affect the structure of the historic building.

Reclaimed ipe, a durable wood and the same material used for the rest of the boardwalk, will be used for the decking replacement (green treated wood has been found to be an unsuitable material in this dune environment).

Construction is expected to occur early in calendar year 2025.

Photos on next page.

Photos

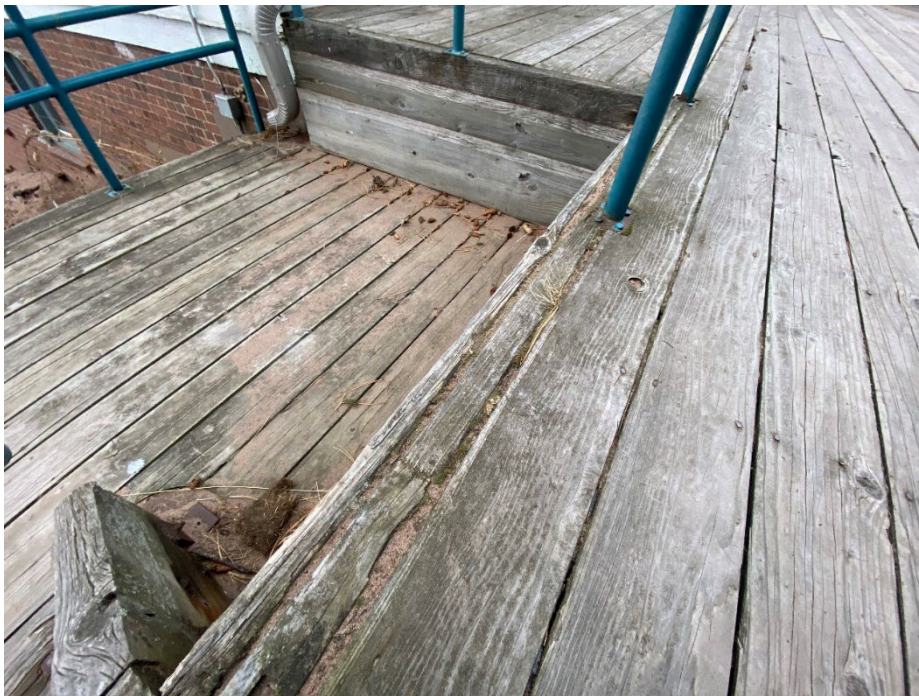
Existing deck, from the southeast facing the building and bathrooms.



Deck from the new boardwalk (lake side)



Photos showing the 'lower' deck to the stairs





Photos showing the stairs leading to the deck.

