

**STATE OF MINNESOTA  
GRANT CONTRACT AGREEMENT**

**CROSS-COUNTRY SKI GRANT-IN-AID PROGRAM  
FY 2022 MAINTENANCE AND GROOMING GRANTS**

Contract #/PO:	203358 / 3-200089
Local Unit of Government Sponsor:	<b>City of Duluth</b>
Trail/Club Name:	<b>Duluth Ski Trails</b>
Grant Amount:	<b>\$11,000</b>

This grant contract is between the State of Minnesota, acting through its Commissioner of Natural Resources ("STATE") and City of Duluth Treasurer 411 W 1<sup>st</sup> Street Duluth MN 55802 ("GRANTEE").

**Recitals**

1. The Cross-Country Ski Trail Grant-in-Aid Program is established in [Minn. Stat. 85.44](#) to provide grants to local units of government for the maintenance of cross-country ski trails and the State is empowered to enter into this grant.
2. The Cross Country Ski Grant-in-Aid Program manual ("Cross-Country Ski Trail Grant-in-Aid Program Manual", hereafter "manual") identifies the duties of the state and grantee, and any non-profit trail organizations the grantee may choose to sponsor for trail grooming and maintenance activities. In this contract and the manual, the terms "Grantee" and "Sponsor" are interchangeable. The manual is available at [https://mndnr.gov/grants/recreation/gia\\_crosscountry.html](https://mndnr.gov/grants/recreation/gia_crosscountry.html), and is incorporated into this grant contract agreement by reference.
3. The State is in need of the services of the Sponsor to provide the maintenance and grooming of the following trail(s) specified in this grant contract agreement:

**Duluth Ski Trails \$11,000.00**

4. The Sponsor has applied to the State for a grant for the above identified trails and has submitted the Cross-Country Ski Trail Grant-in-Aid Program Maintenance and Grooming application form, required attachments, and resolution or official minutes of the Sponsor authorizing the proposed maintenance and grooming. The submitted application form and required attachments are hereinafter referred to as the "Plan."
5. Attachment. The Sponsor's resolution or official minutes are attached and incorporated into this grant contract agreement.
6. The Sponsor represents that it is duly qualified and agrees to perform all services described in this grant contract to the satisfaction of the State. Pursuant to [Minn.Stat.§16B.98](#), Subd.1, the Sponsor agrees to minimize administrative costs as a condition of this grant and to follow the code of ethics pursuant to [Minn.Stat.§43A.38](#) in administration of this grant.

**Grant Contract**

**1 Term of Grant Contract**

**1.1 Effective date:**

July 1, 2021 or the date the State accounting system shows sufficient allotment or encumbrance balance in the fund, allotment, or appropriation to meet this grant contract agreement and per [Minn. Stat. §16B.98](#) Subd. 5 and Subd. 7. Per Minn.Stat.§16B.98 Subd. 7, no payments will be made to the Sponsor until this grant contract is fully executed.

**1.2 Expiration date:**

June 30, 2022, 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 contract: 8. Liability; 9. State Audits; 10. Government Data Practices and Intellectual Property Rights; 12. Publicity and Endorsement; 13. Governing Law, Jurisdiction, and Venue; and 15 Data Disclosure.

### 1.4 ***Incur Expenses.***

Notwithstanding Minnesota Statutes, section 16A.41, expenditures made on or after July 1, 2021 are eligible for reimbursement. Expenses incurred by the grantee or its subcontractors prior to contract execution (as permitted by Minnesota Statutes, section 84.026, Subd. 4(1)) require written pre-approval by the state's authorized representative prior to expenditure.

## 2 Sponsor's Duties

The Sponsor, 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) Maintain the proposed trails in accordance with the guidelines contained within the current Minnesota Cross-Country Ski Trail Grant-in-Aid Program Manual, hereinafter referred to as the "Manual" as accepted or amended by the State and available on the Cross-Country Ski GIA Program webpage at [http://www.dnr.state.mn.us/grants/recreation/gia\\_crosscountry.html](http://www.dnr.state.mn.us/grants/recreation/gia_crosscountry.html). All work will be the responsibility of the Sponsor, its employees, or the sponsor's agent provided the agent is registered as a nonprofit corporation with the State of Minnesota.
- (c) Proceed to acquire necessary interests in lands on the Trail. The Sponsor must acquire land in fee, easement, lease, permit, or other authorization for said Trail. The term of said interest shall be no less than four (4) months between November 15 of any year and April 1 of the succeeding year. For each parcel of land crossed by the Trail, the Sponsor shall obtain from the owner of said parcel a permit, lease, easement, deed, or other authorization for said crossing in accordance with Minnesota Statutes Chapter 604A. The Sponsor shall certify that the necessary interests in the land have been obtained and are on file with the Sponsor or the sponsor's agent.
- (d) Provide adequate maintenance and grooming on the trail, which shall include keeping it reasonably safe for public use; provide sanitation and sanitary facilities when needed; and provide other maintenance and grooming as may be required and in accordance with the trail grooming guidelines established in the manual. The Sponsor and not the State is responsible for maintaining signs and maintenance and grooming all trails. **If the sponsor, or their agent, fails to provide adequate maintenance and grooming of the trails, the State may withhold current or future performance benchmark payments or grooming reimbursements to the local unit of government and/or terminate this agreement.**

## 3 Time

The Sponsor must comply with all the time requirements described in this grant contract. In the performance of this grant contract, time is of the essence.

## 4 Consideration and Payment

### 4.1 ***Consideration.***

The State agrees to disburse funds to the Sponsor pursuant to this Agreement based upon the satisfactory completion of the trail maintenance performance benchmarks and reimburse funds to the sponsor for trail grooming at the equipment costs listed in the Manual. This grant shall not exceed the Grant Amount as specified below. Funds not earned and paid out will be canceled annually at the end of the State's fiscal year (June 30).

### 4.2 ***Total Obligation.***

The total obligation of the State for all compensation and reimbursements to the Sponsor under this grant contract will not exceed **\$11,000**

#### 4.3 *Payment*

##### **1. Trail Maintenance Performance Benchmark, 40% of Total Grant Amount**

Disbursement of these funds is contingent on the local unit of government providing the trail maintenance performance benchmark form certifying that the trail is open and available for use. The certification must be received by December 15<sup>th</sup> of that year, and certifies that the trail was ready to be open and groomed by December 1<sup>st</sup>, pending snow; satisfactorily brushed; bridges were in good repair; signs were installed; gates were capable of being open (snow permitting); interest in the lands to operate the entire trail were obtained through fee ownership, easement, lease, permit, permission, or other conveyance; parking lots were plowed or ready to be plowed (snow permitting); any additional work to set up the trail was completed; and the trail meets the guidelines of the Manual.

##### **2. Trail Grooming Reimbursement, Up to 60% of Total Grant Amount**

Trail grooming is reimbursed to the local unit of government at an hourly rate for specific equipment listed in the Manual. 60% of grant funds are dedicated to trail grooming reimbursement. The local unit of government must submit the Trail Grooming Reimbursement Form and attached grooming logs in order to be reimbursed these funds, in accordance with the Manual. Trail Grooming Reimbursement Forms may be submitted several times during the grooming season for reimbursement periods identified on the form, but the final reimbursement form must be submitted no later than May 30<sup>th</sup> for the previous season's grooming. The State shall not be required to pay for grooming reimbursement that the State's authorized representative determines to be unsatisfactory per the guidelines identified the Manual. Payments shall be made to the extent of authorized reimbursement, or until this agreement is terminated.

#### 4.4 *Contracting and Bidding Requirements*

Per [Minn. Stat. §471.345](#), grantees that are municipalities as defined in Subd. 1 must do the following if contracting 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

**(a)** 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 [Minn. Stat. §16C.28](#), Subd. 1, paragraph (a), clause (2)

**(b)** 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 [Minn. Stat. §16C.28](#), Subd. 1, paragraph (a), clause (2) and paragraph (c).

**(c)** If the amount of the contract is estimated to be \$25,000 or less, 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 [Minn. Stat. §16C.28](#), Subd. 1, paragraph (a), clause (2)

- (d) 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.
- (e) For projects that include construction work of \$25,000 or more, prevailing wage rules apply per, [Minn. Stat. §§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.

## **5 Conditions of Payment**

All services provided by the Sponsor under this grant contract 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. The Sponsor will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

### **5.1 Penalties**

If the sponsor, or their agent, fails to provide adequate maintenance and grooming of the trails, or does not meet the program requirements or guidelines established in the Manual, the State may withhold current or future performance benchmark payments or grooming reimbursements to the local unit of government and/or terminate this agreement. The State reserves the right to reduce payment in the following year's agreement or to exclude the Sponsor or their agent from participation in the Cross-Country Ski Grant-in-Aid Program.

## **6 Authorized Representative**

The State's Authorized Representative is Kevin Johnson, Area Supervisor, DNR Parks & Trails, 1568 Hwy 2, Two Harbors, MN 55616. 218-834-1431, [Kevin.G.Johnson@state.mn.us](mailto:Kevin.G.Johnson@state.mn.us), or his/her successor, and has the responsibility to monitor the Sponsor's performance and the authority to accept the services provided under this grant contract. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Sponsor's Authorized Representative is Dale Sellner, Buildings & Grounds Maintenance Supervisor, City of Duluth, 110 N 42<sup>nd</sup> Ave W, Duluth, MN 55807 218-730-4303 [dsellner@duluthmn.gov](mailto:dsellner@duluthmn.gov). If the Sponsor's Authorized Representative changes at any time during this grant contract, the Sponsor must immediately notify the State.

## **7 Assignment Amendments, Waiver, and Grant Contract Complete**

### **7.1 Assignment**

The Sponsor shall neither assign nor transfer any rights or obligations under this grant contract without the prior written consent of the State, approved by the same parties who executed and approved this grant contract, or their successors in office.

### **7.2 Amendments**

Any amendments to this grant contract 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 contract, or their successors in office.

### **7.3 Waiver**

If the State fails to enforce any provision of this grant contract, that failure does not waive the provision or the State's right to enforce it.

### **7.4 Grant Contract Complete**

This grant contract contains all negotiations and agreements between the State and the Sponsor. No other understanding regarding this grant contract, whether written or oral, may be used to bind either

party.

## **8 Liability**

The Sponsor 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 contract by the Sponsor or the Sponsor's agents or employees. This clause will not be construed to bar any legal remedies the Sponsor may have for the State's failure to fulfill its obligations under this grant contract.

## **9 State Audits**

Under Minn. Stat. § 16B.98, Subd.8, the Sponsor's or the sponsor's agent's books, records, documents, and accounting procedures and practices of the Sponsor, the sponsor's agent, or other party relevant to this grant agreement or transaction 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, receipt and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later.

## **10 Government Data Practices and Intellectual Property Rights**

The Sponsor 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 contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Sponsor under this grant contract. The civil remedies of [Minn. Stat. §13.08](#) apply to the release of the data referred to in this clause by either the Sponsor or the State. If the Sponsor receives a request to release the data referred to in this Clause, the Sponsor must immediately notify the State. The State will give the Sponsor instructions concerning the release of the data to the requesting party before the data is released. The Sponsor's response to the request shall comply with applicable law

## **11 Workers Compensation**

The Sponsor certifies that it is in compliance with [Minn. Stat. §176.181](#), Subd. 2, pertaining to workers' compensation insurance coverage. The Sponsor'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.

## **12 Publicity and Endorsement**

### **12.1 Publicity**

Any publicity regarding the subject matter of this grant contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Sponsor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this grant contract. All projects primarily funded by state grant appropriation must publicly credit the State of Minnesota, including on the Sponsor's website when practicable.

### **12.2 Endorsement**

The Sponsor must not claim that the State endorses its products or services.

## **13 Governing Law, Jurisdiction, and Venue**

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

## **14 Termination and Funding**

### **14.1 Termination by the State**

The State may immediately terminate this grant contract with or without cause, upon 30 days' written notice to the Sponsor. Upon termination, the Sponsor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

### **14.2 Termination for Cause**

The State may immediately terminate this grant contract if the State finds that there has been a failure to comply with the provisions of this grant contract, that reasonable progress has not been made or that the purposes for which the funds were granted have not been or will not be fulfilled. The State may take action to protect the interests of the State of Minnesota, including the refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed.

### **14.3 Termination or Reduction for Insufficient Funding**

- (a)** It does not obtain funding from the Minnesota Legislature.
- (b)** Or, if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the Sponsor. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Sponsor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Sponsor notice of the lack of funding within a reasonable time of the State's receiving that notice.

### **14.4 Termination by Contract**

This grant contract may also be terminated upon mutual agreement by the State and the Sponsor.

### **14.5 Funding**

The State's sole responsibility under this Agreement is to provide funds to the Sponsor. In the event that state funds become unavailable because of legislative or executive action or restraints, including but not limited to the Minnesota Legislature not appropriating sufficient funding for the program or there not being enough funding in the cross-country ski account, the grant amount may be reduced or this contract may be terminated by the State.

## **15 Data Disclosure**

Under [Minn. Stat. § 270C.65](#), Subd. 3, and other applicable law, the Sponsor 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 Sponsor to file state tax returns and pay delinquent state tax liabilities, if any.

## **16 Invasive Species Prevention**

### **16.1 Prevent or limit the introduction, establishment or spread of terrestrial invasive species during work.**

The State requires active steps to prevent or limit the introduction, establishment, and spread of invasive species during contracted work. The Sponsor shall prevent invasive species from entering into or spreading within the Trail(s) by ensuring the cleaning of equipment prior to arriving at the Trail(s) site. Where there are multiple sites and at least one contains invasive species, the intent is to start work at the site with the fewest number of invasive plants, leaving the most heavily infested sites to last. The Sponsor's contractors shall make every effort to schedule operations and site visits to avoid the spread of weed seed. This applies to all activities performed on all lands under this grant agreement and is not limited to lands under State control

### **16.2 Cleaning and disposal of material cleaned.** If the equipment, vehicles, gear, or clothing arrives at the

Trail with soil, aggregate material, mulch, vegetation (including seeds) or animals, it shall be cleaned by the Sponsor's 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 State's Authorized Representative. 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.

## **17 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:

[https://mndnr.gov/pollinator\\_resources/index.html](https://mndnr.gov/pollinator_resources/index.html), **DNR Pollinator Best Management Practices and Habitat Restoration Guidelines**.

## **18 Accessibility**

Structural and nonstructural facilities and programs must meet all state and federal accessibility laws, regulations, and guidelines. Copies of accessibility guidelines can be downloaded off the Americans with Disabilities Act Accessibility Guidelines website at <http://www.access-board.gov>.

## **19 Technical Assistance**

Upon the request of the Sponsor to the extent possible, the State will provide technical assistance with major problems encountered in the maintenance and grooming of the Trail.

## **20 Conflict of Interest**

Conflicts of interest include any relationship or matter which might place the Grantee in a position of conflict, real or apparent, between their responsibilities under the contract and any other outside interests. Conflicts of interest may also include, but are not limited to, direct or indirect financial interests, close personal relationships, positions of trust in outside organizations, consideration of future employment arrangements with a different organization, or decision-making affecting the award that would cause a reasonable person with knowledge of the relevant facts to question the impartiality of the Grantee in the matter.

By signing this contract, the Grantee certifies that they have established safeguards to prohibit its employees from using their positions for purposes that constitute or present the appearance of a personal or organizational conflict of interest, they have reported and/or do not have any current conflicts of interest at this time and are responsible for notifying the Grantor in writing of any actual or potential conflicts of interest that arise during the life of this award.

## **21 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions**

- 21.1 The prospective lower tier participant certifies, by submission of this contract, 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.
- 21.2 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 contract.

## **22 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 contract 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)

## **23 COVID-19**

All work completed for this contract must adhere to the following conditions until all State executive orders related to COVID 19 are rescinded or expire.

(a) Allowed activities and work performed should, to the maximum extent possible, be conducted in a manner that adheres to Minnesota Occupational Safety and Health Standards and the Minnesota Department of Health and CDC Guidelines related to COVID-19, including social distancing and hygiene.

(b) The current list of exemptions and guidelines is maintained on the Department of Health's Stay Safe MN website <https://staysafe.mn.gov/>.

## **24 Force majeure**

Neither party shall be responsible to the other or considered in default of its obligations within this Contract to the extent that performance of any such obligation is prevented or delayed by acts of God, war, riot, disruption of government, or other catastrophes beyond the reasonable control of the party unless the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party relying on this provision to excuse performance must provide the other party prompt written notice of the inability to perform and take all necessary steps to bring about performance as soon as practicable.

**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). 203358 / 3-200089

**3. STATE AGENCY**

By: \_\_\_\_\_

(with delegated authority)

Title: Parks and Trails Division Director or Deputy Director \_\_\_\_\_

Date: \_\_\_\_\_

**2. SPONSOR**

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

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Distribution:**

Agency

Sponsor

State's Authorized Representative