

Contract 216874 / PO #



## State of Minnesota Grant Contract Agreement Federal SubAward Agreement

This grant contract agreement is between the State of Minnesota, acting through its Commissioner of the 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 – FFY22 (Attachment A, attached and incorporated into this grant contract agreement). This is not a Research and Development Award.
2. The State sub-awards \$100,000.00 to the Grantee with Unique Entity Identifier S3MZFK8JXGJ3 for the purpose of conducting Minnesota's Lake Superior Coastal Program's FFY22 Task 306A-2: Minnesota Point Boardwalk and Dune Restoration in the manner described in the Minnesota Department of Natural Resources' federal cooperative agreement which is incorporated by reference.
3. Under [Minn.Stat. § 84.026](#), the State is empowered to enter into this grant contract agreement.
4. The Grantee represents that it is duly qualified and agrees to perform all services described in this grant contract agreement to the satisfaction of the State.

### Grant Contract Agreement

#### 1. Term of Grant Contract Agreement

- 1.1. **Effective date.** August 1, 2022, Per [Minn. Stat. §16B.98, Subd. 5](#) the Grantee must not begin work under this grant contract agreement until this agreement is fully executed and the State's Authorized Representative has notified Grantee that work may commence. Per, [Minn.Stat. §16B.98 Subd. 7](#), the State will not make a payment to the Grantee until this grant contract agreement is fully executed.
- 1.2. **Expiration date.** November 30, 2023, 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 agreement: 9 Liability; 10 Audits; 11 Government Data Practices and Intellectual Property; 13 Publicity and Endorsement; 14 Governing Law, Jurisdiction, and Venue; 16 Data Disclosure; 19 Monitoring; and 24 Additional Program Requirements.
- 1.4. **Incur Expenses.** Notwithstanding [Minn. Stat. § 16A.41](#), expenditures made on or after August 1, 2022 or the date the State obtains all required signatures are eligible for reimbursement.

#### 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 (Attachment B, 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.

### 3. Time

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

### 4. Consideration and Payment

- 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 \$100,000.00 according to the breakdown of costs contained in Attachment B.
  - (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 **\$100,000.00**.
  - (D) **Specific award condition.** Task 306A-2, Minnesota Point Boardwalk and Dune Restoration was not sufficiently defined for the National Oceanic and Atmospheric Administration (NOAA) to perform an environmental review. The Grantee is not authorized to expend any funds for construction of the boardwalks or dune restoration until the Grantee provides to the State: a 306A checklist; budgets; site plans; information on location, methods, and best management practices being used; any additional information requested to satisfy requirements for National Environmental Policy Act (NEPA) and environmental consultation; and receives approval from the State. Once approved, the Grantee is authorized to expend these funds, unless there are other conditions placed on the award that would restrict this expenditure of funds. Non-field activities as described in Task Outcome 1 (\$5,000) in Attachment B may proceed in advance of this approval.
  - (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 \$206,076.00. 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.

4.2. **Payment.** The State will disburse funds to the Grantee pursuant to this agreement on a reimbursement basis. The Grantee must use the State's Financial Reporting Form, which documents grant expenses and non-federal contributions (match). The Grantee must submit reimbursement requests with required expenditure documentation. The State will accept reimbursement requests quarterly, a current progress report must be on file (see Section 18.1).

4.2.1. **Federal funds.** Payments under this grant contract will be made from federal funds obtained by the State through "Implementation of Minnesota's Lake Superior Coastal Program – FFY22", CFDA number 11.419 of the Coastal Zone Management Act of 1972, as amended, administered by the Office for Coastal Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce. 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.

## 5. Subcontractors, Contracting, and Bidding Requirements

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 \(CFR\) 200.318](#) through 2 CFR 200.326.

5.1 **Uniform Municipal Contracting Law.** Per [Minn.Stat. § 471.345](#), Grantees that are municipalities as defined in Subd. 1 must follow the law.

5.1.1 Any services and/or materials that are expected to cost less than \$3,000 (\$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](#)) 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.

5.1.2 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.

5.2 The Grantee must take all necessary affirmative steps to assure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible as outlined in [2 CFR 200.321](#).

- [State Department of Administration's Certified Targeted Group, Economically Disadvantaged and Veteran-Owned Vendor List](#)

5.3 The Grantee must not contract with [vendors who are suspended or debarred in MN](#).

5.4 The Grantee may not issue a subaward or contract to any Federal employee, department, or agency, without advance permission from the State's Authorized Representative.

5.5 **Domestic Sourcing Preferences.** Per 2 CFR 200.322, Grantees should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States in every contract, purchase order, or sub-award. See Section 24.9 for Construction specific requirements.

5.6 **Prohibition on certain telecommunications and video surveillance service or equipment.** Per Public Law 115-232, section 889; 2 CFR 200.216, Grantees are prohibited from obligating or expending grant funds on telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

## 6. Conditions of Payment

All services provided by the Grantee under this grant contract 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. 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. The State will withhold ten percent of the grant amount pending receipt of final report, products, and match documentation.

## 7. Authorized Representative

The State's Authorized Representative is Amber Westerbur, Coastal Program Manager, 1568 Highway 2, Two Harbors, MN 55616, 218-834-1445, [amber.westerbur@state.mn.us](mailto:amber.westerbur@state.mn.us), or her successor, and has the responsibility to monitor the Grantee's performance and the authority to accept the services provided under this grant contract agreement. If the services are satisfactory, the State's Authorized Representative or her designee will certify acceptance on each reimbursement submitted for payment.

The Grantee Authorized Representative is Jim Filby Williams, Director of Parks, Facilities, and Libraries, 411 West 1<sup>st</sup> Street, Duluth MN 55802, 218-730-5319, [jfwilliams@duluthmn.gov](mailto:jfwilliams@duluthmn.gov), or their successor. If the Grantee's Authorized Representative changes at any time during this grant contract agreement, the Grantee must immediately notify the State's Authorized Representative.

## 8. Assignment, Amendments, Waiver, and Grant Contract Agreement Complete

- 8.1 **Assignment.** The Grantee cannot assign or transfer any rights or obligations under this grant contract agreement without the prior consent of the State approved by the same parties who executed and approved this grant contract agreement, or their successors in office.
- 8.2 **Amendments.** Any amendment to this grant contract 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 contract agreement, or their successors in office.
- 8.3 **Waiver.** If the State fails to enforce any provision of this grant contract agreement, that failure does not waive the provision or its right to enforce it.
- 8.4 **Grant Contract Agreement Complete.** This grant contract agreement contains all negotiations and agreements between the State and the Grantee. No other understanding regarding this grant contract agreement, whether written or oral, may be used to bind either party.

## 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 contract 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 contract agreement.

## 10. Audits (State and Single)

Under [Minn.Stat. § 16B.98](#), Subd.8, and Code of Federal Regulations [2 CFR 200.331](#), the Grantee's books, records, documents, and accounting procedures and practices relevant to this grant contract 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 contract agreement.

All Grantees 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. § 13](#), as it applies to all data provided by the State under this grant contract agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Grantee under this grant contract 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. The Grantee's response to the request must comply with applicable law.

### 11.2 ***Intellectual Property.***

- 11.2.1. ***Intellectual Property Rights.*** The Grantee owns all rights, title, and interest in the works created under this grant contract agreement, including copyrights, patents, trade secrets, trademarks and service marks. Works means all inventions, improvements or discoveries (whether or not patentable), geospatial data, databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks and videos, conceived, reduced to practices, created or originated by the Grantee, its employees, and subcontractors, either individually or jointly with others, in the performance of the grant contract agreement. The federal awarding agency (U.S. Department of Commerce) 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 agreement, 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 represents and warrants that the Works 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 infringes 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 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. Nothing in this article constitutes or should be construed to constitute a waiver by either the State or the Grantee of the sovereign immunity of each party from certain suits or remedies relating to infringement claims.



The Grantee may assert the immunities of the State in connection with the Grantee's defense of any infringement claim brought against the State. The State must reasonably cooperate with the Grantee in connection with the Grantee's defense of any claim or suit, and the State will discontinue use of any allegedly infringing works at Grantee's reasonable request.

- (C) **License to State.** The Grantee gives to the State a perpetual, irrevocable, no-fee right and license to make, have made, reproduce, modify, distribute, perform, and otherwise use the works for any and all purposes, in all forms and manners that the State, in its sole discretion, deems appropriate. The Grantee must, upon the request of the State, execute all papers and perform all other acts necessary, to document and secure the State's right and license to the works. At the request of the State, the Grantee will permit the State to inspect the original works.

## 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. Publicity and Endorsement

Every publication of material supported in whole or in part by this award or any subawards must acknowledge the financial assistance of both the State and the Coastal Zone Management Act of 1972, as amended, administered by the Office for Coastal Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce.

- 13.1 **Publicity.** Any publicity regarding the subject matter of this grant contract agreement must identify the sponsoring agencies; and must not be released without prior written approval from the State's Authorized Representative or her designee. For purposes of this provision, publicity includes websites, notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Grantee individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this grant contract.

- (A) **Acknowledgement.** The cover of the title page (or other prominent location) of all reports, studies, or other documents published or distributed electronically or hard copy, and acknowledgement pages on websites/webpages, videos, and other media, that are developed with or otherwise produced under this grant contract agreement, except scientific article or papers appearing in scientific, technical, or professional journals, must contain the following:

*[Grantee] prepared this [report/video/workshop/brochure/etc.] using Federal funds under award NA22NOS4190054 from the Coastal Zone Management Act of 1972, as amended, administered by the Office for Coastal Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce provided to the Minnesota Department of Natural Resources (DNR) for Minnesota's Lake Superior Coastal Program.*

- (B) **Professional Publications.** Publications of methods and results derived from this project in theses, academic or professional journals or presentations at symposia or scholarly meetings is hereby authorized, provided they contain the required acknowledgment of funding support from both the State and the Office for Coastal Management, NOAA and necessary steps have been taken to protect copyright and other intellectual property rights resulting from the project:

*This [study/etc.] was funded in part by the Coastal Zone Management Act of 1972, as amended, administered by the Office for Coastal Management, National Oceanic and Atmospheric Administration under Award NA22NOS4190054 provided to the Minnesota Department of Natural Resources for Minnesota's Lake Superior Coastal Program.*

- 13.2 **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](#).

(Include where applicable) *The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of NOAA, the U.S. Department of Commerce, or the DNR.*

## 14. Governing Law, Jurisdiction, and Venue

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

## 15. Termination

- 15.1 **Termination by the State.** The State may immediately terminate this grant contract agreement 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.
- 15.2 **Termination for Cause.** The State may immediately terminate this grant contract agreement if the State finds that there has been a failure to comply with the provisions of this grant contract agreement, 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.
- 15.3 **Termination for Insufficient Funding.** The State may immediately terminate this grant contract agreement if:
- Funding for Grant No. NA22NOS4190054 is withdrawn by the U.S. Department of Commerce; or
  - Funding cannot be continued at a level sufficient to allow for the payment of the services covered here.
- Termination must be by written notice to the Grantee. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Grantee 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 penalty if the agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Grantee notice of the lack of funding within a reasonable time of the State's receiving that notice.

## 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/Electronic Accessibility

- 17.1 The Grantee must comply with the 2010 American Disabilities Act Standards for Accessible Design, or any updated version of these requirements in effect at the time of this grant, and all applicable regulations and guidelines.

- 17.2 The Grantee must provide materials and products (i.e., documents, report, and website) in an accessible electronic format per [Minnesota Statute 16E.03](#) State Information and Communications System, Subd. 9. Subdivision 9 incorporates federal requirements under [Section 508 of the Rehabilitation Act of 1973](#) (Revised) and the [Web Content Accessibility Guidelines 2.1, level AA](#). For guidance on producing accessible electronic documents, see the Minnesota IT Services [accessibility website](#).

## 18. Reporting Requirements

The Grantee must submit all reports electronically to [mlscp.dnr@state.mn.us](mailto:mlscp.dnr@state.mn.us). The state will accept a digital signature.

- 18.1 **Progress Reports.** Grantee must submit Progress Reports, in a form and manner prescribed by the State. Progress Reports are due quarterly: January 1 – March 31 (due April 15), April 1 – June 30 (due July 15), July 1 – September 30 (due October 15), and October 1 – December 31 (due January 15).
- 18.2 **Financial Reports.** The Grantee must submit Financial Reporting Forms summarizing grant expenditures to date in a form and manner prescribed by the State (see Section 4.2).
- a) If this grant goes beyond or ends on the state fiscal year end date of June 30, the Grantee must submit all expenditures incurred through June 30 by July 31 of that calendar year.
  - b) The Grantee must submit expenditures incurred on or after July 1 on a new and separate Financial Report Form.
  - c) The State will reimburse approved expenditures based on expenditures reported. The State will reimburse for expenditures deemed allowable, allocable, and reasonable within 30 days of receipt of a complete request. The State reserves the right to withhold payment for any reimbursement request deemed to be in question of being allowable, allocable, and reasonable, or for which adequate supporting documentation does not exist.
  - d) The Grantee must maintain financial documentation to support expenditures incurred under this award and provide said documentation to the State upon request.
  - e) The State must receive Financial Reporting Forms within thirty days of expiration (see Section 1). Financial Reporting Forms received after that date will not be eligible for reimbursement.
- 18.3. **Final Report.** The Grantee must submit a Final Report, which summarizes activities conducted during the entire award, and Products, as identified in Attachment B, within thirty days of expiration (see Section 1).

## 19. Monitoring

The State will be allowed at any time to conduct periodic site visits and inspections to ensure work progress in accordance with this grant contract agreement, including a final inspection upon program completion. The State will conduct at least one monitoring visit per grant period on all state grants of over \$50,000. The State will conduct a financial reconciliation of Grantee's expenditures at least once on grants over \$50,000 before making the final payment.

Following closure of the project, the State's authorized representatives will 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

Grantees and subcontractors must follow Minnesota DNR's Operational Order 113, which requires preventing or limiting the introduction, establishment and spread of invasive species. This applies to all activities performed on all lands under this grant contract agreement and is not limited to lands under DNR control or public waters; see Invasive Species Prevention and Site Planning and Management (p. 3-6) <https://www.dnr.state.mn.us/invasives/dnrlands.html>.



## 21. Pollinator Best Management Practices

Habitat restorations and enhancements conducted on any lands using state funds are subject to pollinator management best practices and habitat restoration guidelines pursuant to [Minn.Stat. § 84.973](#). Best practices and guidelines ensure an appropriate diversity of native species to provide habitat for pollinators through the growing season.

## 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 must 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 subawards 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 the following as well as the terms and conditions for closeout of the sub-award.

- 24.1 The Grantee must attend a grant administration workshop or receive grant administration instruction.
- 24.2 The Grantee is responsible for safety in the project, including the safety of project personnel, associates, visitors, and volunteers.
- 24.3 **System for Award Management.** Unless exempted by 2 CFR 25.110, the Grantee must maintain current information in the System for Award Management until submission of the final financial report or receipt of the final payment, whichever is later. The Grantee must review and update the information at least annually.
- 24.4 **Federal Funding Accountability and Transparency Act.** To aid the State in complying with the Federal Funding Accountability and Transparency Act, the Grantee must complete and return the State's "Grantee Reporting Requirements" form (Attachment D, attached and incorporated into this grant contract agreement) with the signed agreement. Failure to do so will delay agreement execution.
- 24.5 **Non-Discrimination Requirements.** No person in the United States may, on the ground of race, color, national origin, handicap, age, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity receiving Federal financial assistance. Including but not limited to:
  - a) Title II of the American's with Disabilities Act (28 CFR Part 35) of 1990 protects qualified individuals with disabilities from discrimination on the basis of disability in services, programs, and activities provided by State and local government entities.
  - b) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) and DOC implementing regulations published at 15 C.F.R. Part 8 prohibiting discrimination on the grounds of race, color, or national origin under programs or activities receiving Federal financial assistance;

- c) Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.) prohibiting discrimination on the basis of sex under Federally assisted education programs or activities;
- d) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), and DOC implementing regulations published at 15 C.F.R. Part 8b prohibiting discrimination on the basis of handicap under any program or activity receiving or benefiting from Federal assistance.
- e) The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.), and DOC implementing regulations published at 15 C.F.R. Part 20 prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance; and
- f) Any other applicable non-discrimination law(s).

24.6 **Lobbying.** Any recipient that receives more than \$100,000 in Federal funding and conducts lobbying with non-federal funds related to a covered Federal action must notify the State's Authorized Representative.

24.7 **Sexual Assault and Sexual harassment Prevention and Response.** Grantees must maintain clear and unambiguous standards of behavior to ensure harassment free workplaces for all personnel, including students. This includes all grant related activities and during conferences and workshops. Grantees should have accessible and evident means for reporting violations and timely investigations of allegations and corrective actions. Grantees must report to the State if any key personnel on the award are placed on administrative leave relating to a harassment finding or investigation.

24.8 **Scientific Integrity.**

- a) *Maintaining Integrity.* The Grantee shall maintain the scientific integrity of research performed pursuant to this grant including the prevention, detection, and remediation of any allegations regarding the violation of scientific integrity or scientific and research misconduct, and the conduct of inquiries, investigations, and adjudications of allegations of violations of scientific integrity or scientific and research misconduct. All the requirements of this provision flow down to subrecipients.
- b) *Peer Review.* The peer review of the results of scientific activities under this award shall be accomplished to ensure consistency with NOAA standards on quality, relevance, scientific integrity, reproducibility, transparency, and performance. NOAA will ensure that peer review of "influential scientific information" or "highly influential scientific assessments" is conducted in accordance with the Office of Management and Budget (OMB) Final Information Quality Bulletin for Peer Review and NOAA policies on peer review, such as the Information Quality Guidelines.
- c) In performing or presenting the results of scientific activities under this award and in responding to allegations regarding the violation of scientific integrity or scientific and research misconduct, the Grantee and all subrecipients shall comply with the provisions herein and [NOAA Administrative Order 202-735D](#), Scientific Integrity, and its Procedural Handbook, including any amendments thereto.
- d) *Primary Responsibility.* The Grantee shall have the primary responsibility to prevent, detect, and investigate allegations of a violation of scientific integrity or scientific and research misconduct. Unless otherwise instructed, the Grantee shall promptly conduct an initial inquiry into any allegation of such misconduct and may rely on its internal policies and procedures, as appropriate, to do so.
- e) By executing this grant, the Grantee provides its assurance that it has established an administrative process for performing an inquiry, investigating, and reporting allegations of a violation of scientific integrity or scientific and research misconduct; and that it will comply with its own administrative process for performing an inquiry, investigation, and reporting of such misconduct.

24.9 **306A Requirements.**

- a) The Grantee must provide the State with copies of all required permits prior to starting the project.
- b) **Build American, Buy American Act.** The Grantee must comply with the Build American, Buy American Act: all iron and steels used in the project must be produced in the United States - this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. The Buy America preference applies to articles, materials, and supplies that are

consumed in, incorporated into, or affixed to a project. It does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the project.

- Prior to initiation of any construction, the Recipient is required to inform the State whether it is using iron, steel, manufactured products, or construction materials produced or manufactured in the United States.
  - **Waivers.** When necessary, recipients may apply for a waiver from this requirement prior to construction start.
- c) The Grantee must properly and efficiently administer, operate, and maintain the project site and project results for the purpose authorized by this award and in accordance with the provisions of the award for its estimated useful life.
- d) The Grantee must erect a sign at the project site and maintain it during construction that, at minimum, identifies the project, includes a NOAA logo and indicates the project is being funded through the National Coastal Zone Management Program. The Grantee must also maintain a permanent plaque or sign at the project site with the same information.
- e) The Grantee must be in compliance with disability access requirements, including the 2010 Americans with Disabilities Act Standards for Accessible Design, or any updated version of these requirements at in effect at the time of construction.
- f) If the DNR and/or NOAA determines that project or property is no longer used for its original purpose, the Recipient shall reimburse NOAA for Federal funds received for the project consistent with [2 C.F.R. 200](#) Property Standards, unless alternative arrangements consistent with the Coastal Zone Management Act and satisfactory to NOAA and the State are authorized in writing.

### Attachments:

- \_\_\_\_\_ A. Award Notice
- X   B. Project Description and Budget
- X   C. Conflict of Interest Disclosure
- X   D. Federal Funding Accountability and Transparency Act Form

### 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). 216874/ \_\_\_\_\_

#### 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.

Signatures on Next Page

#### 3. STATE AGENCY

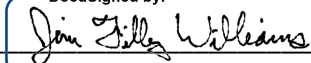
By: \_\_\_\_\_  
(with delegated authority)

Title: Director, Ecological and Water Resources Division \_\_\_\_\_

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

Distribution:  
Agency  
Grantee  
State's Authorized Representative

CITY OF DULUTH

DocuSigned by:  
  
\_\_\_\_\_  
Jim Filby Williams

\_\_\_\_\_  
Allison Brooks

\_\_\_\_\_  
Rebecca St. George  
City Attorney

\_\_\_\_\_  
Jen Carlson  
Finance Director

\_\_\_\_\_  
Emily Larson  
Mayor

\_\_\_\_\_  
Chelsea Helmer  
City Clerk

\_\_\_\_\_  
Date

\_\_\_\_\_

## Attachment A: Federal Award Letter

Minnesota Department of Natural Resources, Minnesota's Lake Superior Coastal Program

FORM CD-450 (REV 10/18)		U. S. DEPARTMENT OF COMMERCE <b>FINANCIAL ASSISTANCE AWARD</b>		<input type="checkbox"/> GRANT <input checked="" type="checkbox"/> COOPERATIVE AGREEMENT	
RECIPIENT NAME NATURAL RESOURCES, MINNESOTA DEPARTMENT OF		FEDERAL AWARD ID NUMBER <b>NA22NOS4190054</b>			
		PERIOD OF PERFORMANCE 07/01/2022-12/31/2023			
STREET ADDRESS 500 LAFAYETTE RD N		FEDERAL SHARE OF COST <div style="text-align: right;">\$1,128,000.00</div>			
CITY, STATE, ZIP CODE SAINT PAUL MN 55155-4002		RECIPIENT SHARE OF COST <div style="text-align: right;">\$1,128,000.00</div>			
AUTHORITY 16 U.S.C. 1455, 1455a		TOTAL ESTIMATED COST <div style="text-align: right;">\$2,256,000.00</div>			
CFDA NO. AND NAME 11.419 Coastal Zone Management Administration Awards					
PROJECT TITLE Implementation of Minnesota's Lake Superior Coastal Program - FFY22					
<p>This Award Document (Form CD-450) signed by the Grants Officer constitutes an obligation of Federal funding. By signing this Form CD-450, the Recipient agrees to comply with the Award provisions checked below and attached. Upon acceptance by the Recipient, the Form CD-450 must be signed by an authorized representative of the Recipient and returned to the Grants Officer. If not signed and returned without modification by the Recipient within 30 days of receipt, the Grants Officer may unilaterally withdraw this Award offer and de-obligate the funds.</p> <p><input checked="" type="checkbox"/> DEPARTMENT OF COMMERCE FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS</p> <p><input type="checkbox"/> R &amp; D AWARD</p> <p><input type="checkbox"/> FEDERAL-WIDE RESEARCH TERMS AND CONDITIONS, AS ADOPTED BY THE DEPT. OF COMMERCE</p> <p><input checked="" type="checkbox"/> BUREAU SPECIFIC ADMINISTRATIVE STANDARD AWARD CONDITIONS</p> <p><input checked="" type="checkbox"/> SPECIFIC AWARD CONDITIONS</p> <p><input checked="" type="checkbox"/> LINE ITEM BUDGET</p> <p><input checked="" type="checkbox"/> 2 CFR PART 200, UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS, AS ADOPTED PURSUANT TO 2 CFR § 1327.101</p> <p><input type="checkbox"/> 48 CFR PART 31, CONTRACT COST PRINCIPLES AND PROCEDURES</p> <p><input checked="" type="checkbox"/> DEPARTMENT OF COMMERCE PRE-AWARD NOTIFICATION REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS (REF: 79 FR78390)</p> <p><input type="checkbox"/> MULTI-YEAR AWARD. PLEASE SEE THE MULTI-YEAR SPECIFIC AWARD CONDITION.</p> <p><input type="checkbox"/> OTHER(S):</p>					
SIGNATURE OF DEPARTMENT OF COMMERCE GRANTS OFFICER Jewel Linzey				DATE 07/08/2022	
PRINTED NAME, PRINTED TITLE AND SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL Katie Smith				DATE 07/20/2022	



## Attachment B: 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 – December 31, 2023

### Project Description

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

**Project Number:** 22-306A-02

**Subrecipient:** City of Duluth

**Timeframe:** July 2022 – November 2023

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 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 boardwalks at Lafayette Community Center and at the Park Point Park. Boardwalks will extend from parking area to the beach, and include railings and signage.

Outcome End Date: November 2023

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

Outcome End Date: November 2023

## Products

- (photos of) two boardwalks and revegetation of beach grass

## Budget (Task Funding)

Grant (federal): \$100,000.00  
 Match (non-federal): \$106,076.00  
 Total: \$206,076.00

Name	Grant	Match	Total
Personnel			
Fringe			
Travel			
Equipment			
Supplies		106,076	106,076
Subcontract	12,000		12,000
Construction	88,000		88,000
Other			
Indirect			
<b>Total</b>	<b>\$100,000</b>	<b>\$106,076</b>	<b>\$206,076</b>

## Budget Detail

**Supplies:** value of restored IPE lumber

### Subcontract:

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

**Construction:** City of Duluth Equipment and personal to construct the boardwalks

## **Attachment C: Conflict of Interest Disclosure – Grantee**

Minnesota Department of Natural Resources, Minnesota's Lake Superior Coastal Program

The Minnesota Department of Administration's [Office of Grants Management Policy 08-01](#), 'Conflict of Interest Policy for State Grant Making' applies to all pass-through grants, including the Coastal Program.

A conflict of interest occurs when a person has actual or apparent duty or loyalty to more than one organization and the competing duties or loyalties may result in actions that are adverse to one or both parties. A conflict of interest exists even if no unethical, improper, or illegal act results from it.

Policy 08-01 requires that grantees, and their sub-grantees, maintain written Conflict of Interest policies that comply; and monitor and disclose to the state any conflicts for appropriate mitigation.

### **Actual Conflict of Interest**

An actual conflict of interest occurs when a decision or action would compromise a duty to a party without taking immediate appropriate action to eliminate the conflict. Examples included but not limited to:

- One party uses his or her position to obtain special advantage, benefit, or access to the other party's time, services, facilities, equipment, supplies, badge, uniform, prestige, or influence.
- One party receives or accepts money (or anything else of value) from another party or has equity or a financial interest in or partial or whole ownership of the other party's organization.
- One party is an employee, board member or family member of the other party.

### **Potential Conflict of Interest**

A potential conflict of interest may exist if one party has a relationship, affiliation, or other interest that could create an inappropriate influence if the person is called on to make a decision or recommendation that would affect one or more of those relationships, affiliations, or interests. Examples included but not limited to:

- One party has a relationship, affiliation, or other interest that could create an inappropriate influence if one party is called on to make a decision or recommendation that would affect one or more of those relationships, affiliations, or interests. For example, when one party serves in a volunteer capacity for another party, it has the potential to, but does not necessarily create a conflict of interest, depending on the nature of the relationship between the two parties.

A disclosed potential conflict of interest warrants additional discussion in order to identify the nature of the relationship, affiliation, or other interest and take action to mitigate any potential conflicts.

### **Individual Conflict of Interest**

A conflict of interest that may benefit an individual employee where actions or non-action could be interpreted to be influenced by something that would benefit them directly or through indirect gain to a friend, relative, acquaintance or business or organization with which they are involved.

## Organizational Conflict of Interest

A conflict of interest can also occur with an organization that is a grant applicant or grantee of a state agency. Organizational conflicts of interest occur when:

- A grantee is unable or potentially unable to render impartial assistance or advice to the State due to competing duties or loyalties
- A grantee's objectivity in carrying out the grant is or might be otherwise impaired due to competing duties or loyalties
- A grantee creates an unfair competitive advantage in hiring for professional services or purchasing supplies or equipment by furnishing unauthorized proprietary information or source selection information that is not available to all competitors and create a path to one or a few.

## Certification

**This section to be completed by Grantee's Authorized Representative:**

- I certify that I have read and understand conflict of interest as defined by Policy 08-01.
- I certify that we will maintain an adequate Conflict of Interest Policy, and will monitor and report any conflicts of interest by individual employees or the organization to the State's Authorized Representative.

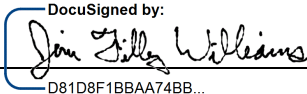
Grantee Name: City of Duluth

Project Number/Name: 22-306A-02 / Minnesota Point Boardwalk and Dune Restoration

Pass-through Funding Source: *Federal funds under award NA22NOS4190054 from the Coastal Zone Management Act of 1972, as amended, administered by the Office for Coastal Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce provided to the Minnesota Department of Natural Resources (DNR) for Minnesota's Lake Superior Coastal Program.*

Authorized Representative: (please print) Jim Filby Williams

Date: August 1, 2022

Signature:    
D81D8F1BBAA74BB...

## Attachment D: Federal Funding Accountability and Transparency Act Information

Minnesota Department of Natural Resources, Minnesota's Lake Superior Coastal Program

Please initial if any of the following apply to your circumstance.

Grants not subject to the reporting requirements include:

- (1) A federal award to an individual who applies for or receives a federal award as a natural person (i.e., unrelated to any business or non-profit organization he or she may own or operate in his or her name);
- (2) A federal award to an entity that had a gross income, from all sources, of less than \$300,000 in the entity's previous tax year; and
- (3) Any award if the required reporting would disclose classified information.

**If any of the above apply, no further information is required.**

If none of the above applies, complete the following. This will be the same information that appears in grantee's System for Award Management (SAM) profile, as applicable.

### Grantee - Subrecipient

**Grantee SAM Number** S3MZFK8JXGJ3 *The grantee organization's 12-digit Unique Entity ID.*

**Grantee Name** City of Duluth *The name of the grantee organization.*

**Grantee "Doing Business As" Name** \_\_\_\_\_ *The "doing-business-as" name of the grantee organization.*

**Address of Principal Place of Performance (where majority of project will occur)**

City Duluth State MN Zip+4 55802-1102 Country USA

Congressional District (if Zip+4 is not provided) \_\_\_\_\_

**Grantee - Parent SAM Number** \_\_\_\_\_ *The grantee parent organization's 12-digit Unique Entity ID (UEI). This will be the same parent UEI that appears in grantee's SAM profile, as applicable.*

### Project Description

**CFDA Program Number (and Program Title)** 11.419; Coastal Zone Management Administration Awards

**Federal Agency Name** U.S. Department of Commerce; National Oceanic and Atmospheric Administration

**Federal Award Number** NA22NOS4190054

**Task Number and Name** 22-306A-2: Minnesota Point Boardwalk and Dune Restoration

**Amount of Sub Award** \$100,000.00 **Contract Execution Date** (to be filled in by DNR)

**Grantee - Project Description**

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.

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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.

## Organization Questions

**Q1.** In your business or organization's previous fiscal year, did your business or organization (including parent organization, all branches, and all affiliates worldwide) receive: (1) 80 percent or more of your annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; AND (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

- ☐ Yes If Yes, must answer Q2.  
☒ No If No, grantee not required to provide Q2 data.

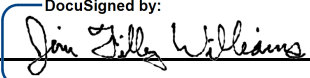
**Q2.** Does the public have access to information about the compensation of the senior executives in your business or organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

- ☐ Yes If Yes, confirm on SEC: <http://www.sec.gov/>.  
☐ No If No, fill in the names and total compensation of the top 5 highly compensated officials below.

Names and total compensation of the top 5 highly compensated officials of the grantee organization. This will be the same compensation information that appears in grantee's Central Contractor Registration (CCR) profile, as applicable.

Name _____	Amount _____
Name _____	Amount _____
Name _____	Amount _____
Name _____	Amount _____
Name _____	Amount _____

Sign below to indicate that all information provided in the data response column is correct as it pertains to your grant.

Signature:   
 Date: August 1, 2022