

**STATE OF MINNESOTA
FEDERAL TRANSPORTATION GRANTS TECHNICAL ASSISTANCE
AND IIJA DISCRETIONARY MATCH
GRANT AGREEMENT**

This Grant Agreement (the “Agreement”) is between the State of Minnesota, acting through its Commissioner of Transportation ("State"), and ("Grantee"):

Public Entity (Grantee) name, address and contact person:

City of Duluth
411 W First Street
Duluth, MN 55802

Contact: Cindy Voigt, PE

RECITALS

1. General Funds were appropriated to provide grants for technical assistance to a requesting local unit of government that seeks to submit an application for a federal discretionary grant for a transportation-related purpose in Minnesota Laws 2023, Chapter 68, Article 1, Section 2, Subdivision 5(a).
2. General Funds were appropriated to make state funded grants to a federal grant recipient in Minnesota Laws 2023, Chapter 68, Article 1, Section 2, Subdivision 5(a).
3. Grantee has been awarded Federal Transportation Grants Technical Assistance or IIJA Discretionary Grant Match funds in session law as noted above.
4. Grantee represents that it is duly qualified and agrees to perform all services described in this Agreement to the satisfaction of State. Pursuant to [Minn. Stat. § 16B.98](#), Subd. 1, Grantee agrees that administrative costs must be necessary and reasonable as a condition of this Agreement.

AGREEMENT TERMS

1 Term of Agreement, Survival of Terms, and Incorporation of Exhibits

- 1.1 **Effective Date.** This agreement will be effective on the date the State obtains all required signatures under [Minn. Stat. § 16B.98](#), Subd. 5. As required by [Minn. Stat. § 16B.98](#) Subd. 7, no payments will be made to Grantee until this agreement is fully executed. Grantee must not begin work under this agreement until this agreement is fully executed and Grantee has been notified by the State’s Authorized Representative to begin the work.
- 1.2 **Expiration Date.** This agreement will expire on **December 31, 2030**, or when all obligations have been satisfactorily fulfilled, whichever occurs first.
- 1.3 **Survival of Terms.** All clauses which impose obligations continuing in their nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this agreement, including, without limitation, the following clauses: 8. Liability; 9. State Audits; 10. Government Data Practices; 11. Workers Compensation; 12. Governing Law, Jurisdiction, and Venue; and 14. Data Disclosure.
- 1.4 **Exhibits.** Exhibit A: Sources and Uses of Funds Schedule; Exhibit B: Grant Application; and Exhibit C: Grantee Resolution Approving Grant Agreement are attached and incorporated into this agreement.

2 Grantee’s Duties

- 2.1 Grantee will conduct activities in accordance with its grant application, or in the case of legislatively selected projects, in accordance with the enabling session law. Collectively, activities set forth in the grant project application and/or the enabling session law will be referred to as the “Project”. See Exhibit B.
- 2.2 Grantee will comply with all required grants management policies and procedures set forth through [Minn. Stat. § 16B.97](#), Subd. 4 (a) (1).
- 2.3 **Asset Monitoring.** If Grantee uses funds obtained by this agreement to acquire a capital asset, the Grantee is required to use that asset for a public purpose for the normal useful life of the asset. Grantee may not sell or change the purpose of use for the capital asset(s) obtained with grant funds under this agreement without the prior written

consent of the State and an agreement executed and approved by the same parties who executed and approved this agreement, or their successors in office.

3 Time

3.1 Grantee must comply with all the time requirements described in this Agreement. In the performance of this grant Agreement, time is of the essence.

4 Consideration and Payment

4.1 **Consideration.** State will pay for all services performed by Grantee under this Agreement as follows:

4.1.1 **Compensation.** Grantee will be reimbursed for actual, incurred costs that are eligible under Minn. Stat. § 174.38. Grantee shall use this grant solely to reimburse itself for expenditures it has already made to pay for the costs of one or more of the activities listed under section 2.1.

4.1.2 **Sources and Uses of Funds.** Grantee represents to State that the Sources and Uses of Funds Schedule attached as Exhibit A accurately shows the total cost of the Project and all of the funds that are available for the completion of the Project. Grantee agrees that it will pay for any costs that are ineligible for reimbursement and for any amount by which the costs exceed State's total obligation in section 4.1.3. Grantee will return to State any amount appropriated but not required.

4.1.3 **Total Obligation.** The total obligation of State for all compensation and reimbursements to Grantee under this Agreement will not exceed **\$1,901,495.50.**

4.2 Payment

4.2.1 **Invoices.** Grantee will submit state aid pay **requests for reimbursements** requested under this Agreement. State will promptly pay Grantee after Grantee presents an itemized invoice for the services actually performed and State's Authorized Representative accepts the invoiced services.

4.2.2 **All Invoices Subject to Audit.** All invoices are subject to audit, at State's discretion.

4.2.3 **State's Payment Requirements.** State will promptly pay all valid obligations under this Agreement as required by Minn. Stat. § 16A.124. State will make undisputed payments no later than thirty (30) days after receiving Grantee's invoices and progress reports for services performed. If an invoice is incorrect, defective or otherwise improper, State will notify Grantee within ten (10) days of discovering the error. After State receives the corrected invoice, State will pay Grantee within thirty (30) days of receipt of such invoice.

4.2.4 **Grant Monitoring Visit and Financial Reconciliation.** During the period of performance, State will make at least annual monitoring visits and conduct annual financial reconciliations of Grantee's expenditures.

4.2.4.1 State's Authorized Representative will notify Grantee's Authorized Representative where and when any monitoring visit and financial reconciliation will take place, which State employees and/or contractors will participate, and which Grantee staff members should be present. Grantee will be provided with at least seven (7) calendar days of notice prior to any monitoring visit or financial reconciliation.

4.2.4.2 Following a monitoring visit or financial reconciliation, Grantee will take timely and appropriate action on all deficiencies identified by State.

4.2.4.3 At least one monitoring visit and one financial reconciliation must be completed prior to final payment being made to Grantee.

4.2.5 **Unexpended Funds.** Grantee must promptly return to State at grant closeout any unexpended funds that have not been accounted for in a financial report submitted to State.

4.2.6 **Closeout.** State will determine, at its sole discretion, whether a closeout audit is required prior to final payment approval. If a closeout audit is required, final payment will be held until the audit has been completed. Monitoring of any capital assets acquired with grant funds will continue following grant closeout.

4.3 **Contracting and Bidding Requirements.** If Grantee is a municipality as defined by Minn. Stat. § 471.345, Subd. 1, then Grantee shall comply with the requirements of Minn. Stat. § 471.345 for all procurement under this Agreement.

5 Conditions of Payment

All services provided by Grantee under this Agreement must be performed to State's satisfaction, as determined at the sole discretion of State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. Grantee will not receive payment for work found by State to be unsatisfactory or

performed in violation of federal, state, or local law.

6 Authorized Representatives

6.1 State's Authorized Representative is:

Marc Briese,
Programs Manager,
MnDOT State Aid Office
395 John Ireland Boulevard, MS 500
St. Paul, MN 55155
Office: 651-366-3802
marc.briese@state.mn.us

or his/her successor. State's Authorized Representative has the responsibility to monitor Grantee's performance and the authority to accept the services provided under this agreement. If the services are satisfactory, State's Authorized Representative will certify acceptance on each invoice submitted for payment.

6.2 Grantee's Authorized Representative is:

Duncan Schwensohn, PE
411 W First Street
Duluth, MN 55802
218-730-5107
dschwensohn@duluthmn.gov

If Grantee's Authorized Representative changes at any time during this Agreement, Grantee will immediately notify State.

7 Assignment Amendments, Waiver, and Grant Agreement Complete

- 7.1 **Assignment.** Grantee may neither assign nor transfer any rights or obligations under this Agreement without the prior written consent of State and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.
- 7.2 **Amendments.** Any amendments to this 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 agreement, or their successors in office.
- 7.3 **Waiver.** If State fails to enforce any provision of this Agreement, that failure does not waive the provision or State's right to subsequently enforce it.
- 7.4 **Grant Agreement Complete.** This Agreement contains all negotiations and agreements between State and Grantee. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.
- 7.5 **Electronic Records and Signatures.** The parties agree to contract by electronic means. This includes using electronic signatures and converting original documents to electronic records.
- 7.6 **Certification.** By signing this Agreement, Grantee certifies that it is not suspended or debarred from receiving federal or state awards.

8 Liability

Grantee and State agree that each will be responsible for its own acts and the results thereof to the extent authorized by law, and neither shall be responsible for the acts of the other party and the results thereof. The liability of State is governed by the provisions of Minn. Stat. § 3.736. If Grantee is a "municipality" as that term is used in Minn. Stat. Chapter 466, then the liability of Grantee is governed by the provisions of Chapter 466. Grantee's liability hereunder shall not be limited to the extent of insurance carried by or provided by Grantee, or subject to any exclusion from coverage in any insurance policy.

9 State Audits

Under Minn. Stat. § 16B.98, Subd.8, the Grantee's books, records, documents, and accounting procedures and practices of Grantee, or other party relevant to this Agreement or transaction, are subject to examination by State and/or the State Auditor or Legislative Auditor, the Attorney General, as appropriate, for a minimum of six (6) years from the end of this 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. Grantee will take timely and appropriate action on all deficiencies identified by an audit.

10 Government Data Practices

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

11 Workers' Compensation

Grantee certifies that it is in compliance with [Minn. Stat. § 176.181](#), Subd. 2, pertaining to workers' compensation insurance coverage. 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 State's obligation or responsibility.

12 Governing Law, Jurisdiction, and Venue

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

13 Termination; Suspension

13.1 Termination by the State. State may terminate this Agreement with or without cause, upon thirty (30) days' written notice to Grantee. Upon termination, Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed. If funding is canceled, withdrawn, or terminated, State may suspend its performance until funding is restored. Suspension of performance does not release State from its obligations under the agreement.

13.2 Termination for Cause. State may immediately terminate this grant Agreement if State finds that there has been a failure to comply with the provisions of this Agreement, that reasonable progress has not been made, that fraudulent or wasteful activity has occurred, that Grantee has been convicted of a criminal offense relating to a state grant agreement, or that the purposes for which the funds were granted have not been or will not be fulfilled. 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.

13.3 Termination for Insufficient Funding. State may immediately terminate this Agreement if:

13.3.1 It does not obtain funding from the Minnesota Legislature; or

13.3.2 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 Grantee. State is not obligated to pay for any services that are provided after notice and effective date of termination. However, Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. State will not be assessed any penalty if the Agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. State will provide the Grantee notice of the lack of funding within a reasonable time of State's receiving that notice.

13.4 Suspension. State may immediately suspend this Agreement in the event of a total or partial government shutdown due to the failure to have an approved budget by the legal deadline. Work performed by Grantee during a period of suspension will be deemed unauthorized and undertaken at risk of non-payment.

14 Data Disclosure

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

- 15 **Fund Use Prohibited.** Grantee will not utilize any funds received pursuant to this Agreement to compensate, either directly or indirectly, any contractor, corporation, partnership, or business, however organized, which is disqualified or debarred from entering into or receiving a State contract. This restriction applies regardless of whether the disqualified or debarred party acts in the capacity of a general contractor, a subcontractor, or as an equipment or material supplier. This restriction does not prevent Grantee from utilizing these funds to pay any party who might be disqualified or debarred after Grantee's contract award on this Project.
- 16 **Discrimination Prohibited by Minnesota Statutes § 181.59.** Grantee will comply with the provisions of Minn. Stat. § 181.59 which requires that every contract for or on behalf of the State of Minnesota, or any county, city, town, township, school, school district or any other district in the state, for materials, supplies or construction will contain provisions by which Contractor agrees: 1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no Contractor, material supplier or vendor, will, by reason of race, creed or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; 2) That no Contractor, material supplier, or vendor, will, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause 1 of this section, or on being hired, prevent or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed or color; 3) That a violation of this section is a misdemeanor; and 4) That this contract may be canceled or terminated by the state of Minnesota, or any county, city, town, township, school, school district or any other person authorized to grant contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this Agreement.
- 17 **Limitation.** Under this Agreement, State is only responsible for receiving and disbursing funds. Nothing in this Agreement will be construed to make State a principal, co-principal, partner, or joint venturer with respect to the Project(s) covered herein. State may provide technical advice and assistance as requested by Grantee, however, Grantee will remain responsible for providing direction to its contractors and consultants and for administering its contracts with such entities. Grantee's consultants and contractors are not intended to be third party beneficiaries of this Agreement.
- 18 **Additional Provisions**
- 18.1 **Prevailing Wages.** Grantee agrees to comply with all of the applicable provisions contained in Minn. Stat. Chapter 177, and specifically those provisions contained in Minn. Stat. § 177.41 through 177.435 as they may be amended or replaced from time to time with respect to the Project. By agreeing to this provision, Grantee is not acknowledging or agreeing that the cited provisions apply to the Project.
- 18.2 **E-Verification.** Grantee agrees and acknowledges that it is aware of Minn. Stat. § 16C.075 regarding e-verification of employment of all newly hired employees to confirm that such employees are legally entitled to work in the United States, and that it will, if and when applicable, fully comply with such order.
- 18.3 **Telecommunications Certification.** If federal funds are included in Exhibit A, by signing this Agreement, Grantee certifies that, consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018), Grantee does not and will not use any equipment, system, or service that uses "covered telecommunications equipment or services" (as that term is defined in Section 889 of the Act) as a substantial or essential component of any system or as critical technology as part of any system. Grantee will include this certification as a flow down clause in any contract related to this Agreement.
- 18.4 **Title VI/Non-discrimination Assurances.** Grantee agrees to comply with all applicable US DOT Standard Title VI/Non-Discrimination Assurances contained in DOT Order No. 1050.2A, and in particular Appendices A and E, which can be found at: https://edocs-public.dot.state.mn.us/edocs_public/DMResultSet/download?docId=11149035. If federal funds are included in Exhibit A, Grantee will ensure the appendices and solicitation language within the assurances are

inserted into contracts as required. State may conduct a review of the Grantee's compliance with this provision. Grantee must cooperate with State throughout the review process by supplying all requested information and documentation to State, making Grantee staff and officials available for meetings as requested, and correcting any areas of non-compliance as determined by State.

18.5 Use, Maintenance, Repair and Alterations. The Grantee shall not, without the written consent of the State and the Commissioner, (i) permit or allow the use of any of the property improved with these grants funds (the "Real Property") for any purpose other than in conjunction with or for the operation of a county highway, county state-aid highway, town road, or city street and for other uses customarily associated therewith, such as trails and utility corridors, (ii) substantially alter any of the Real Property except such alterations as may be required by laws, ordinances or regulations, or such other alterations as may improve the Real Property by increasing its value or which improve its ability to be used for the purposes set forth in section (i), (iii) take any action which would unduly impair or depreciate the value of the Real Property, (iv) abandon the Real Property, or (v) commit or permit any act to be done in or on the Real Property in violation of any law, ordinance or regulation.

If Grantee fails to maintain the Real Property in accordance with this Section, State may perform whatever acts and expend whatever funds necessary to so maintain the Real Property, and Grantee irrevocably authorizes State to enter upon the Real Property to perform such acts as may be necessary to so maintain the Real Property. Any actions taken or funds expended by State shall be at its sole discretion, and nothing contained herein shall require State to take any action or incur any expense and State shall not be responsible, or liable to Grantee or any other entity, for any such acts that are performed in good faith and not in a negligent manner. Any funds expended by State pursuant to this Section shall be due and payable on demand by State and will bear interest from the date of payment by State at a rate equal to the lesser of the maximum interest rate allowed by law or 18% per year based upon a 365-day year.

18.6 Grant Administrator and Organizational Leadership Contact Information. Pursuant to [Minn. Stat. § 16B.98](#), Subd. 5(d), if grantee has a website, the names and contact information for the grant administrator(s) and organization's leadership must be clearly published.

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GRANTEE

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

By: _____

Title: City Administrator, per delegated authority

Date: _____

Attest:

By: _____

Title: City Clerk

Date: _____

Countersigned:

By: _____

Title: City Auditor

Date: _____

Approved as to form:

By: _____

Title: City Attorney

Date: _____

DEPARTMENT OF TRANSPORTATION

Approval and Certifying Encumbrance as required by Minnesota Statutes § 16A.15 and 16C.05

By: _____
State Aid Programs Manager
(with delegated authority)

Date: _____

**DEPARTMENT OF TRANSPORTATION
CONTRACT MANAGEMENT**

By: _____

Date: _____

EXHIBIT A

SOURCES AND USES OF FUNDS SCHEDULE

SOURCES OF FUNDS		USES OF FUNDS	
Entity Supplying Funds	Amount	Expenses	Amount
State Funds:		Items Paid for with	
2023 State IIJA Match Funds (SAAS Acct 426)	\$1,901,495.50	IIJA Match Funds:	
Other:		Construction	\$1,901,495.50
Subtotal	\$1,901,495.50	Subtotal	\$1,901,495.50
Public Entity Funds:		Items paid for with Non-	
Matching Funds		IIJA Match Funds:	
Other:		Construction	\$7,605,982.03
Federal Funds (RAISE)	\$7,605,982.03		
Subtotal	\$7,605,982.03	Subtotal	\$7,605,982.03
TOTAL FUNDS	\$9,507,477.53	TOTAL PROJECT COSTS	\$9,507,477.53

Form Name:
Submission Time:
Browser:
IP Address:
Unique ID:

IIJA-match-application
September 19, 2023 12:15 pm
Chrome 116.0.0.0 / Windows
156.99.162.253
1143704662

EXHIBIT B GRANT APPLICATION

MnDOT Agreement No. 1059903
SP 118-090-029

Entity Legal Name

City of Duluth

Mailing address

411 West 1st Street
Duluth, MN 55802

Type of applicant

Local government

Authorized representative

Name

Jim Filby Williams

Title

Director - Parks, Facilities, and Libraries

Phone number

(218) 730-5319

Email address

jfwilliams@duluthmn.gov

Program contact

Name

Duncan Schwensohn

Title

Senior Engineer

Phone number

(218) 730-5107

Email address

dschwensohn@duluthmn.gov

Program/project information

Transportation mode

Bicycle/pedestrian

Program/project title

Coastal Transportation Infrastructure Rehabilitation Project Phase Vi

Brief program/project description

Protect and improve a separated multimodal transportation trail, increase connections to that trail, and mitigate the coastal barrier adjacent to the trail.

Program/project location

Duluth MN

Congressional district of program/project

MN 8

Estimated start date

Apr 01, 2025

Estimated end date

Mar 30, 2030

State Project Number or SAP Number, if applicable 118-090-028

Federal award information

Name of federal awarding agency/office	U.S. Department of Transportation Office of the Secretary (OST)
Name of OST grant program	Rebuilding American Infrastructure with Sustainability and Equity (RAISE)
Assistance Listing Number (ALN)	20.933
Federal Funding Opportunity Number	DTOS59-23-RA-RAISE
Date of notice of award	Jun 28, 2023

Federal application information

Amount of federal funds requested	8196234
Amount of federal funds awarded	8196234
Total project cost (as proposed on application)	10196234
Match requirement percentage for the federal program	80%/20%
Upload PDF of SF-424 from application	https://mndotforms.formstack.com/admin/download/file/15226297122
Upload Notice of Award letter/confirmation from federal awarding agency	https://mndotforms.formstack.com/admin/download/file/15226297123

Additional comments

Is there anything else you'd like to add? Thank you!

EXHIBIT C

GRANTEE RESOLUTION APPROVING GRANT AGREEMENT