

Attachment: ML22 OH Grant Agreement
STATE OF MINNESOTA
GRANT CONTRACT AGREEMENT
Outdoor Heritage Fund

This grant contract agreement is between the State of Minnesota, acting through its Commissioner of Natural Resources ("State") and Dakota County, 14955 Galaxie Avenue, Apple Valley, MN, 55124 ("grantee").

Recitals

1. Under [Minn. Stat. §84.026](#) the Department of Natural Resources is empowered to enter into grant agreements.
2. Under ML 2022, Ch. 77, Art. 1, Sec. 2, subd. 5(a), Dakota County Habitat Protection/Restoration Phase VIII, \$6,066,000 is to the commissioner of natural resources for an agreement with Dakota County to acquire permanent conservation easements and land in fee and to restore and enhance riparian and other wildlife habitats in Dakota County. A list of proposed land acquisitions and restorations and enhancements must be provided as part of the required accomplishment plan.
3. The State awards to the Grantee for the purpose of conducting the program entitled Dakota County Habitat Protection/Restoration Phase VIII in the manner described in the Grantee's approved Accomplishment Plan.
4. The Grantee represents that it is duly qualified and agrees to perform all services described in this grant contract agreement and [Minn. Stat. §97A.056](#). Pursuant to [Minn.Stat. §16B.98, Subd. 1](#), the Grantee agrees to minimize administrative costs as a condition of this grant contract agreement.

Grant Contract Agreement

1 Term of Grant Contract Agreement

1.1 *Effective Date:* July 1, 2022

Per Minnesota Statutes Section 16B.98, subdivision 7, no payments will be made to the Grantee until this grant contract agreement is fully executed.

1.2 *Expiration Date*

Funds for acquiring real property are available until June 30, 2026. Funds for restoring or enhancing land not acquired with an appropriation in M.L. 2022, Chapter 77, Article 1, Section 2 are available until June 30, 2027. Funds for restoring and enhancing land acquired with an appropriation in M.L. 2022, Chapter 77, Article 1, Section 2 are available for four years after the acquisition date with a maximum end date of June 30, 2030. Funds for a project that receives at least 15 percent of its funding from federal funds are available until a date sufficient to match the availability of federal funding to a maximum of six years if the federal funding was confirmed and included in the original approved draft accomplishment plan.

1.3 *Survival of Terms*

The following clauses survive the expiration or cancellation of this grant contract agreement: 10 Liability; 11 State Audits; 12 Government Data Practices and Intellectual Property; 14 Acknowledgment and Endorsement; 15 Governing Law, Jurisdiction, and Venue; 17 Data Disclosure; 221 Monitoring; and 25 Program Requirements.

1.4 *Incur Expenses*

Notwithstanding Minnesota Statutes, section 16A.41, expenditures made on or after July 1, 2022, or the date the Accomplishment Plan is approved, whichever is later, are eligible for reimbursement unless otherwise provided in M.L. 2022, Chapter 77, Article 1, Section 2, Subdivision 8.

2 Grantee's Duties

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

- 2.1 See Attachment A, approved accomplishment plan, which is incorporated and made a part of this agreement. If applicable, the Grantee shall provide the State's Authorized Representative a copy of the revised accomplishment plan and the corresponding LSOHC approval letter within one week of any LSOHC approved changes to the accomplishment plan.
- 2.2 The Grantee will comply with required grants management policies and procedures set forth through [Minn. Stat. §16B.97, subdivision 4\(a\)\(1\)](#), [Minn. Stat. §97A.056](#), and [M.L. 2022, Chapter 77, Article 1, Section 2](#).
- 2.3 The Grantee agrees to complete the program in accordance with the approved budget to the extent practicable

and within the program period specified in the grant contract agreement. Any material change in the grant contract agreement shall require an amendment by the State (see Section 8.2).

- 2.4 The Grantee shall be responsible for the administration, supervision, management, record keeping and program oversight required for the work performed under this agreement.
- 2.5 The Grantee is responsible for maintaining an adequate conflict of interest policy. Throughout the term of this agreement, the Grantee shall monitor and report any actual, potential, or perceived conflicts of interest to the State's Authorized Representative.

3 Time

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

4 Consideration and Payment

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

4.1 Consideration.

4.1.1 Compensation

Compensation in an amount not to exceed \$6,066,000 based on the following computation: See Attachment A for project budget.

4.1.2 Matching requirements

Grantee certifies that the following matching requirement for the grant will be met by Grantee. The total project cost is \$6,066,000. Grantee agrees to match at least \$0.00 of this project cost.

4.1.3 Total Obligation

The total obligation of the State for all compensation and reimbursements to the Grantee under this grant contract agreement will not exceed Six Million Sixty Six Thousand Dollars and No Cents.

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

4.2 Payment

4.2.1 Payment

The State shall disburse funds to the Grantee pursuant to this agreement on a reimbursement basis. The Grantee shall submit payment requests with required expenditure documentation, as defined in the current Reimbursement Manual, to the State for review and approval. The Grantee shall submit payment requests on a regular basis (i.e. quarterly).

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

4.2.2 Retainage

The final reimbursement will be paid out when the State determines that the Grantee has satisfactorily fulfilled all the terms of this agreement, unless otherwise excluded by the State in writing.

5 Use of Funds

- 5.1 The Grantee shall use the proceeds of this agreement only for the eligible direct expenditures of the program as described in the approved accomplishment plan.
- 5.2 The Grantee may provide portions of the proceeds of this agreement to the State. Work done by the State must be so specified in the approved accomplishment plan. A letter shall be submitted to the State's Authorized Representative and include: work to be accomplished; the specific area of the accomplishment plan authorizing the work; the portion of the proceeds to be used by the State; and the name, title, address, phone number and e-mail address for the State's staff member assigned to accomplish the work. The State will have the opportunity to review the letter and approve the work prior to accepting the funds. The Grantee's proceeds available under clause 4, Consideration and Payment, of this agreement shall be reduced

by the amount provided for State use. In return, the State agrees to report back to the Grantee as to how appropriation funds were spent once the work is completed.

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 Grantee will be bound to the most recent Reimbursement Manual, as provided by the State each state fiscal year

7 Authorized Representative

The State's Authorized Representative is Katherine Sherman-Hoehn, Grants Manager, (651) 259-5533, katherine.sherman-hoehn@state.mn.us, or his/her successor, and has the responsibility to monitor the Grantee's performance and the authority to accept the services provided under this grant contract agreement. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Grantee's Authorized Representative is Lisa West, 14955 Galaxie Avenue, Apple Valley, MN, 55124, lisa.west@co.dakota.mn.us, or his/her successor. If the Grantee's Authorized Representative changes at any time during this grant contract agreement, the Grantee must immediately notify the State.

8 Assignment Amendments, Waiver, and Grant Contract Agreement Complete

8.1 Assignment

The Grantee shall neither assign nor transfer any rights or obligations under this grant contract agreement without the prior written 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 amendments 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, that failure does not waive the provision or the State's 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 Subcontractors, Contracting, and Bidding Requirements

9.1 The Grantee agrees that if it subcontracts any portion of this project to another entity, the agreement with the subcontractor will contain all applicable provisions of the agreement with the State. The Grantee will refer to the Subcontractors section in the current Reimbursement Manual, as provided by the State.

9.2 Per [Minn. Stat. §471.345](#), grantees that are Municipalities as defined in Subd. 1 must follow the law.

9.2.1 The grantee must maintain support documentation of the purchasing and/or bidding process utilized to contract services in their financial records, including support documentation justifying a single/sole source bid, if applicable.

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

9.2.3 The grantee must not contract with vendors who are suspended or debarred in MN: [Link to Suspend/Debarred Vendor Report \(http://www.mmd.admin.state.mn.us/debarredreport.asp\)](http://www.mmd.admin.state.mn.us/debarredreport.asp)

9.3 *Nongovernmental Organizations*

Must follow the below requirements or submit a copy of their organization's contracting policies via Attachment B for review and possible approval by the State's Authorized Representative. If the thresholds change during the life of the grant, the Grantee must follow the most current Reimbursement Manual guidelines.

9.3.1 Any services and/or materials that are expected to cost \$100,000 or more must undergo formal public notice and solicitation process.

9.3.2 Any services and/or materials that are expected to cost between \$25,000 and \$99,999 must be based on three (3) verbal quotes or bids.

9.3.3 Any services and/or materials that are expected to cost between \$10,000 and \$24,999 must be competitively based on a minimum of two (2) verbal quotes or bids or awarded to a targeted vendor.

9.3.4 The grantee must take all necessary affirmative steps to assure that targeted vendors from businesses with active certifications through these entities are used when possible:

- [State Department of Administration's Certified Targeted Group, Economically Disadvantaged and Veteran-Owned Vendor List](#)
- Metropolitan Council's Targeted Vendor list: [Minnesota Unified Certification Program](#)
- Small Business Certification Program through Hennepin County, Ramsey County, and City of St. Paul: [Central Certification Program](#)

9.3.5 The grantee must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. See Attachment C: Conflict of Interest Disclosure

9.3.6 The grantee must maintain support documentation of the purchasing and/or bidding process utilized to contract services in their financial records, including support documentation justifying a single/sole source bid, if applicable.

9.3.7 Notwithstanding 1- 3 above, the State may waive bidding process requirements when it is determined there is only one legitimate or practical source for such materials or services and that grantee has established a fair and reasonable price.

9.3.8 For projects that include construction work of \$25,000 or more, prevailing wage rules apply per [Minn. Stat. §§177.41](#) through [177.44](#). These rules require that the wages of laborers and workers should be comparable to wages paid for similar work in the community as a whole. A prevailing wage form should accompany these bid submittals.

9.3.9 The grantee must not contract with vendors who are suspended or debarred in MN: [Link to Suspend/Debarred Vendor Report \(http://www.mmd.admin.state.mn.us/debarredreport.asp\)](#)

10 **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's 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.

11 **State Audits**

Under [Minn. Stat. § 16B.98, Subd.8](#), the Grantee's books, records, documents, and accounting procedures and practices of the Grantee or other party relevant to this grant contract 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 contract 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.

12 **Government Data Practices and Intellectual Property Rights**

12.1 *Government Data Practices*

The Grantee and State must comply with the Minnesota Government Data Practices Act, [Minn. Stat. Ch. 13](#), as it applies to all data provided by the State under this grant 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 shall comply with applicable law

12.2 ***Intellectual Property Rights (if applicable)***

12.2.1. The State owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents *created and paid for under this grant contract agreement*. Works means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the Grantee, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this grant contract agreement. Works includes "Documents." Documents are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Grantee, its employees, agents, or subcontractors, in the performance of this grant contract agreement. The Documents will be the exclusive property of the State and all such Documents must be immediately returned to the State by the Grantee upon completion or cancellation of this grant contract agreement. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire." The Grantee assigns all right, title, and interest it may have in the Works and the Documents to the State. The Grantee must, at the request of the State, execute all papers and perform all other acts necessary to transfer or record the State's ownership interest in the Works and Documents.

12.2.2 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 grant contract 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 must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of the State, and that neither Grantee nor its employees, agents, or subcontractors retain any interest in and to the Works and Documents. The Grantee represents and warrants that the Works and Documents do not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause 8, the Grantee will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the State, at the Grantee's expense, from any action or claim brought against the State to the extent that it is based on a claim that all or part of the Works or Documents infringe upon the intellectual property rights of others. The Grantee will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Grantee's or the State's opinion is likely to arise, the Grantee must, at the State's discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.

13 **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.

14 Acknowledgment and Endorsement

14.1 Acknowledgment

The Grantee must acknowledge financial support from the Outdoor Heritage Fund in project publications, signage and other public communication and outreach related to work completed using the appropriation. Acknowledgment may occur, as appropriate, through use of the fund logo or inclusion of language attributing support from the fund.

14.2 Endorsement

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

15 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.

16 Termination

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.

17 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.

18 Use of Funds as Match to Other Grants or Programs

The Grantee must inform the State's Authorized Representative whenever the grant funds will be used as match or for reimbursement for any other grant or program.

- a. The Grantee must inform the State's Authorized Representative or their grant specialist of the following information: grant program, grant name, the amount of grant or match funds to be used, location where funds were or will be used, activity the funds will support, and current landowner (if applicable).
- b. The Grantee must also inform the State's Authorized Representative before work begins if the new grant or program will add any encumbrances to state land where grant or match funds will be spent.

19 American Disabilities Act

The Grantee must comply with the 2010 American Disabilities Act Standards for Accessible Design.

20 Non-Discrimination Requirements

No person in the United States must, 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 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; 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;
- b. 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.
- c. 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;
- d. Title II of the Americans with Disabilities Act (ADA) of 1990 which prohibits discrimination against qualified individuals with disabilities in services, programs, and activities of public entities.

e. Any other applicable non-discrimination law(s).

21 Reporting Requirements

The Grantee is bound to reporting requirements in [Minn. Stat. §97A.056](#), M.L. 2022, Chapter 77, Article 1, Section 2, Attachment A, Attachment D, and Attachment E (if applicable).

22 Monitoring

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

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

23 Invasive Species Prevention

Grantees must follow Minnesota DNR's Operational Order 113, which requires preventing or limiting the introduction, establishment and spread of invasive species during activities on public waters and DNR-administered lands. 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. Duties are listed under Sections II and III (p. 5-8) of Operational Order 113 which may be found here: [Link to Operational Order 113](#) (http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder_113.pdf)

24 Pollinator Best Management Practices

Habitat restorations and enhancements conducted on DNR lands and prairie restorations on state lands or on any lands using state funds are subject to pollinator best management practices and habitat restoration guidelines pursuant to [Minnesota Statutes, section 84.973](#). Practices and guidelines ensure an appropriate diversity of native species to provide habitat for pollinators through the growing season. Current specific practices and guidelines to be followed for contract and grant work can be found here: [Link to Specific Pollinator Best Management Practices for DNR Grants and Contracts](#) (http://files.dnr.state.mn.us/natural_resources/npc/bmp_contract_language.pdf).

25 Program Requirements

The Grantee must comply with the most current versions of Attachments C, D, and E as attached and incorporated into this grant contract agreement. The Grantee must also comply with the program requirements in M.L. 2022, Chapter 77, Article 1, Section 2.

Attachments

- A. Current Accomplishment Plan with LSOHC Approval Letter
- B. Non-governmental Organization Subcontracting (if applicable)
- C. Conflict of Interest Disclosure
- D. Reimbursement Manual
- E. Land Acquisition Reporting Procedures (if applicable)

1. STATE ENCUMBRANCE VERIFICATION

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

Signed: _____

Date: _____

SWIFT Contract/PO No(s). _____

2. GRANTEE

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

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

3. STATE AGENCY

By: _____

(with delegated authority)

Title: _____

Date: _____

Distribution:

Agency

Grantee

State's Authorized Representati