

RECREATION, LIBRARIES AND AUTHORITIES COMMITTEE

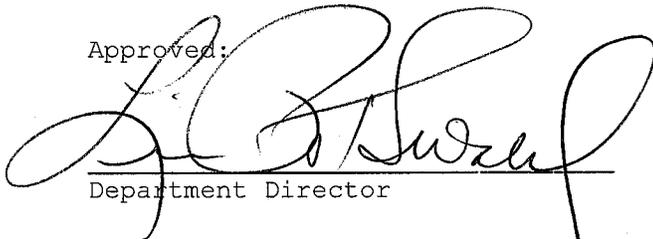
11-0490R

RESOLUTION AUTHORIZING PROPER CITY OFFICIALS TO ACCEPT
A GRANT FROM THE STATE OF MINNESOTA IN THE AMOUNT OF
\$320,000 FOR THE LAKE SUPERIOR ZOO.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept
a grant from the state of Minnesota in the amount of \$320,000, such funds to be
used to support the operation of the Lake Superior Zoo, and to execute a grant
agreement, substantially the same as that on file in the office of the city clerk
as Public Document No. _____, funds to be deposited in Fund 200-130-
4220-02 (Zoo, Community Resources).

Approved:



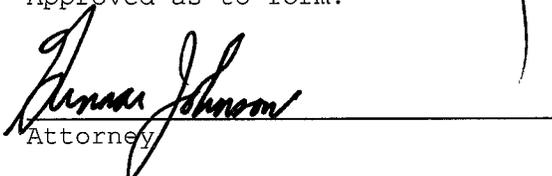
Department Director

Approved for presentation to council:



Chief Administrative Officer

Approved as to form:



Attorney

Approved:



Auditor

PARKS/ATTY KB:dma 09/16/2011

STATEMENT OF PURPOSE: This resolution authorizes the proper city officials to
accept a grant from the state of Minnesota for the operation of the Lake Superior
Zoo and further authorizes city officials to execute the grant agreement. No
matching funds are required. The grant's start date is July 1, 2011, and it
expires on June 30, 2013.

**STATE OF MINNESOTA
GRANT AGREEMENT**

This grant agreement is between the State of Minnesota, acting through its Commissioner of Natural Resources ("State") and City of Duluth, 12 East 4th Street, Duluth, MN 55802 ("Grantee").

Recitals

1. Under Minn. Stat. 84.026, 297A.94 and Minnesota Laws of 2011, 1st Special Session, Chapter 2, Article 1, Section 4, Subd. 8 the State is empowered to enter into this grant.
2. Pursuant to Minnesota Laws and Statutes, these funds are dedicated to the two Minnesota Zoo operations.
3. The Grantee represents that it is duly qualified and agrees to perform all services described in this grant agreement to the satisfaction of the State.

Grant Agreement

1 Term of Grant Agreement

1.1 *Effective date:* July 1, 2011, or the date the State obtains all required signatures under Minnesota Statutes Section 16C.05, subdivision 2, whichever is later.

The Grantee must not begin work under this grant agreement until this agreement is fully executed and the Grantee has been notified by the State's Authorized Representative to begin the work.

1.2 *Expiration date:* June 30, 2013, 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 agreement: 8. Liability; 9. State Audits; 10. Government Data Practices and Intellectual Property; 13. Publicity and Endorsement; 14. Governing Law, Jurisdiction, and Venue; and 16 Data Disclosure.

2 Grantee's Duties

The Grantee, who is not a state employee, will

Use the funds provided for the operations of the Duluth Zoo.

Reporting Requirements: Detailed information on the expenditure of grant funds, and measurable outcomes as a result of the expenditure of funds will be displayed on Grantee's web site by June 30 each year. If Grantee does not have an active web site, they shall report to the Authorized Representative the detailed information on expenditure of grant funds.

3 Time

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

4 Consideration and Payment

Consideration. The State will provide quarterly payments to the Grantee as a result of funds collected and made available for this purpose.

Total Obligation. The total obligation of the State for all compensation and reimbursements to the Grantee under this grant agreement will not exceed \$320,000.00.

4.2. Payment

(1) *Invoices.* The State will promptly pay the Grantee after the Grantee presents a quarterly invoice in the amount of \$40,000.00. Payment will be made to the Grantee based on the fund balance available for the quarter.

(2) *Federal funds.* (Where applicable, if blank this section does not apply) Payments under this grant agreement will be made from federal funds obtained by the State through Title _____ CFDA number _____ of the _____ Act of _____. 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 **Conditions of Payment**

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

6 **Authorized Representative**

The State's Authorized Representative is Kristel Lynch, Grants Supervisor, 500 Lafayette Road, St. Paul, MN 55155-4010, (651) 259-5533, 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 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 Ms. Kathleen Bergen, Parks Director, 12 East 4th Street, Duluth, MN 55802, (218) 730-4309. If the Grantee's Authorized Representative changes at any time during this grant agreement, the Grantee must immediately notify the State.

7 **Assignment, Amendments, Waiver, and Grant Agreement Complete**

7.1 **Assignment.** The Grantee may neither assign nor transfer any rights or obligations under this grant agreement without the prior consent of the State and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this grant agreement, or their successors in office.

7.2 **Amendments.** Any amendment to this grant 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 agreement, or their successors in office.

7.3 **Waiver.** If the State fails to enforce any provision of this grant agreement, that failure does not waive the provision or its right to enforce it.

7.4 **Grant Agreement Complete.** This grant agreement contains all negotiations and agreements between the State and the Grantee. No other understanding regarding this grant agreement, whether written or oral, may be used to bind either party.

8 **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 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.

9 **State Audits**

Under Minn. Stat. 16C.05, subd. 5, the Grantee's books, records, documents, and accounting procedures and practices relevant to this grant 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 agreement.

10 **Government Data Practices and Intellectual Property**

10.1. **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 agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Grantee under this grant 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.

11 **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.

12 Publicity and Endorsement

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

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

13 Governing Law, Jurisdiction, and Venue

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

14 Termination

The State may cancel this grant agreement at any time, 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 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.

1. STATE ENCUMBRANCE VERIFICATION

Individual certifies that funds have been encumbered as required by Minn. Stat. 16A.15 and 16C.05.

Signed: Kim Montgomery
Date: 8/30/14

3. STATE AGENCY

By: _____
(with delegated authority)
Title: _____
Date: _____

Grant Contract No. 32098 PO No.: 3-5522

2. 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: _____
Date: _____

By: _____
Title: _____
Date: _____

Distribution:
Agency
Grantee
State's Authorized Representative - Photo Copy

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and date first above shown.

Countersigned:

CITY OF DULUTH

City Auditor
Approved this _____ day of _____
2011.

By _____
Mayor

Approved as to form:

Attest:

City Attorney

City Clerk