RECREATION, LIBRARIES, & AUTHORITIES COMMITTEE

12-0413R

RESOLUTION AUTHORIZING APPLICATION FOR AND ACCEPTANCE OF, IF OFFERED, A PARKS AND TRAILS LEGACY GRANT OF $500,000 DEVELOP AND IMPLEMENT A SINGLE WAYFINDING PROGRAM FOR ALL CITY PARKS AND TO INSTALL A COORDINATED AND COMPREHENSIVE SET OF PARK WAYFINDING SIGNS AT INTEGRAL HIGHWAYS AND STREET INTERSECTIONS THROUGHOUT THE CITY AND COMMITTING THE $50,000 IN KIND CONTRIBUTION.

CITY PROPOSAL:

RESOLVED, that the city act as legal sponsor for the project contained in the Park Legacy application to be submitted on or before September 28, 2012, and that the City's Chief Administrative Officer is hereby authorized to apply to the Minnesota department of natural resources (MnDNR) for funding of this project on behalf of city.

FURTHER RESOLVED, that the city has the legal authority to apply for financial assistance, and financial capability to meet the match requirement and ensure adequate construction, operation, maintenance and replacement of the proposed project for its design life.

FURTHER RESOLVED that the city has not incurred any development costs or entered into a written purchase agreement to acquire the property in connection with the project.

FURTHER RESOLVED, that if the aforesaid grant is offered, the proper city officials are authorized to enter into a grant agreement with the MnDNR substantially in the form of that on file in the office of the city clerk as Public Document No._____ agreeing to the project with grant funds to be deposited in Fund 205-130-1219-4210-02 (Parks Fund, Community Resources, Parks Operating, Pass-thru Federal Grants) and to provide the city's in-kind contribution of $50,000 of the project cost payable from Fund 205-130-1219-4220 (Parks Fund, Community Resources, Parks Operating, State of Minnesota).

Approved:

for _____
Department Director

Approved for presentation to council:

_____
Chief Administrative Officer

Approved as to form:

_____
Attorney

Approved:

_____
Auditor

PARKS KB:SW:le 08/06/2012

STATEMENT OF PURPOSE: This resolution authorizes the application and acceptance by the proper city officials of a grant from MnDNR for parks and trails legacy grant monies for the purpose of developing and implementing a single wayfinding program for all city parks and installing a coordinated/comprehensive set of park wayfinding signs at integral highways and street intersections throughout the city. The wayfinding signs will assist the city in connecting its citizens and visitors with easy access and participation in the citys parks and trails. The city will provide a $50,000 in kind contribution to the project. By accepting this grant the city is committing the property to public use and understands that state approval is required before any portion of parks system developed using grant monies are converted in whole or in part to any use other than that authorized in the grant agreement.

STATE OF MINNESOTA
GRANT AGREEMENT
Parks and Trails Legacy Grant Program
~~PL11~~PL12-

This grant agreement is between the State of Minnesota, acting through its Commissioner of Natural Resources ("State") and **[GIVE THE FULL NAME OF THE GRANTEE INCLUDING ITS ADDRESS]** ("Grantee").

Recitals

1. Under Minn. Laws 2011 1st Special Session, Chapter 6, Article 3, Section 3, Subd. c(1), the state has allocated funds to provide grants under Minnesota Statutes, section 85.535, to acquire, develop, improve, and restore parks and trails of regional or statewide significance outside of the metropolitan area, as defined in Minnesota Statutes, section 473.121, subdivision 2.
2. The Grantee has made application to the State for a portion of the allocation for the purpose of conducting the project entitled **<Project Name>** in the manner described in the Grantee's APPLICATION which is incorporated into this Agreement by reference.
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*: [SPELL OUT FULL DATE (e.g., April 1, 2001)** or the date the State obtains all required signatures under Minnesota Statutes §16C.05, subdivision 2, whichever is later.
The Grantee must not begin work under this grant contract until this contract is fully executed and the Grantee has been notified by the State's Authorized Representative to begin the work.

1.2 ***Expiration date*: ~~December 31, 2014~~June 30, 2015**, 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; 12. Signage, Publicity and Endorsement; 13. Governing Law, Jurisdiction, and Venue; 15 Data Disclosure, 18 Inspections, 19 Resource Management and Protection and 22 Program Requirements.

2 Grantee's Duties

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

See Attachment A – PROJECT BUDGET, which is incorporated by reference and made a part of this agreement. Where provisions of the Grantee's APPLICATION are inconsistent with other provisions of the Agreement, the provisions of this Agreement shall take precedence over the provisions of the APPLICATION.

The Grantee agrees to complete the project in accordance with the approved budget to the extent practicable and within the project period specified in the grant agreement. Any material change in the scope of the project, budget or completion date shall require prior written approval by the STATE.

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

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

~~1. COMPENSATION: Compensation in an amount up to 90% of the total project cost stated in Attachment A-Project Budget~~ not to exceed **$<grant amount>**.

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2. MATCHING REQUIREMENTS: Grantee must provide a nonstate cash match of at least ~~10~~ __ percent of the total eligible project costs as indicated in Item 1 of the Grantee's Application.

THE TOTAL STATE OBLIGATION FOR ALL COMPENSATION TO GRANTEE SHALL NOT EXCEED: **<Spell out grant amount>**.

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***

1. Payment. *The* State shall disburse funds to the Grantee pursuant to this Agreement on a reimbursement basis, based upon a payment request and required expenditure documentation submitted by the Grantee and reviewed and approved by the State. The Grantee shall be limited to no more than four payment requests during the period covered by this Agreement. The Grantee shall submit a final billing within 30 days of the end of the project period.

2.Federal funds. Payments under this grant agreement will be made from federal funds obtained by the State through the National Park Service of the United States Department of Interior, Land and Water Conservation Fund, Act of 1965 as amended thereto. If at any time such funds become unavailable, this Grant Agreement shall be terminated immediately upon written notice of such fact by the State to the Grantee. In the event of such termination, Grantee shall be entitled to payment, determined on a pro rata basis, for services satisfactorily performed. 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 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.

6 Authorized Representative

The State's Authorized Representative is **[NAME, ADDRESS, TELEPHONE NUMBER]**, 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 **[NAME, TITLE, ADDRESS, TELEPHONE NUMBER]**. 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 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 agreement.

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.

10.2. ***Intellectual Property Rights (if applicable)***

(A) *Intellectual Property Rights.* 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 contract.* 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 contract. 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 contract. 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 contract. 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.

(B) *Obligations*

1. *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 contract, 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.

2. *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.

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 Signage, Publicity and Endorsement

12.1 ***Signage*** Any site developed or improved by this grant agreement shall display a sign at a prominent location and in a form approved by the State

12.2 ***Publicity***. Any publicity regarding the subject matter of this grant agreement 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.

12.3 ***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.

16 American Disabilities Act

The Grantee must comply with the following accessibility guidelines:

16.1. Americans with Disability Act Accessibility Guidelines for Buildings and Facilities (ADAAG), 2002. The amended accessibility guidelines include a new section 15 that provides guidelines for recreation facilities such as boating and fishing facilities, golf, swimming pools and play areas. Also included in the new amended guidelines, is a definition of "Area of Sport Activity" and requirements for accessible routes to the area of sport activities and sport courts.

16.2. Regulatory Negotiation Committee on Accessibility Guidelines for Outdoor Developed Areas Final Report, 1999. Until incorporated into the ADAAG standards, the final report for outdoor developed areas should be used for designing recreational facilities such as campgrounds, picnic areas, trails, and beaches.

17 Reporting Requirements

The Grantee shall submit a progress report, in a form prescribed by the State, by January 1 of each year during the term of this grant agreement. A final report must be submitted with the request for final reimbursement. Forms will be provided by the state.

18 Inspections

The State's authorized representatives shall be allowed at any time to conduct periodic site visits and inspections to ensure work progress in accordance with this grant agreement, including a final inspection upon project completion.

Following closure of the project, 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.

19 Resource Management and Protection

The Grantee shall protect, manage and maintain, or cause to maintain, the property acquired and/or developed pursuant to this grant agreement. Properties shall be kept reasonably safe for public use, if applicable. All state and federal accessibility laws, regulations and standards shall be adhered to. Vegetation management and similar safeguards and supervision shall be provided to the extent feasible. Buildings, roads, trails and other structures and improvements, if any, shall be kept in reasonable repair throughout their estimated lifetime to prevent undue deterioration. Failure to adequately manage, maintain and properly protect the resources and property assisted through this grant agreement may result in the withholding by the State of any current or future payments to the Grantee related to this or any other Local Grants projects and may result in ineligibility of the Grantee to receive future Local Grants Program Grants.

The Grantee shall keep the facility open to the general public at reasonable hours and at times of the year consistent with the purpose and type of use of the property and appropriate management and protection of natural resources.

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 during activities on public waters and DNR-administered lands. This applies to all activities performed on all lands under this grant 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 at http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder_113.pdf.

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

a. 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.

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this agreement.

22 Program Requirements

The grantee must comply with Attachment B, Parks and Trails Legacy Program Requirements.

1. STATE ENCUMBRANCE VERIFICATION

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

Signed: _____

Date: _____

Grant agreement No. _____

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: _____

3. STATE AGENCY

By: _____
(with delegated authority)

Title: _____

Date: _____

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