

PERSONNEL

13-0289R

RESOLUTION AUTHORIZING ACCEPTANCE OF GRANT FROM MINNESOTA DEPARTMENT OF LABOR AND INDUSTRY OCCUPATIONAL SAFETY AND HEALTH CONSULTATION DIVISION IN AN AMOUNT UP TO \$5,252 AND COMMITTING LOCAL MATCH.

CITY PROPOSAL:

RESOLVED, that the proper city officials are authorized to accept a grant CONTRACT , a copy of which is on file in the office of the city clerk as Public Document No. _____, from the Minnesota department of labor and industry occupational safety and health consultation division, in the amount up to \$5,252, said funds to be deposited in Fund 510-500-1900-4220-02, and to commit a local match up to \$5,252 from fund 510-500-1945-5241, for the purpose of purchasing safety equipment.

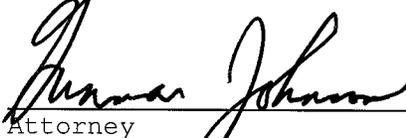
Approved:


Department Director

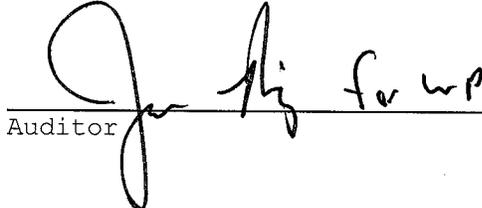
Approved for presentation to council:


Chief Administrative Officer

Approved as to form:


Attorney

Approved:


Auditor

HR TS: 15 5/23/2013

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize accepting a grant in the amount of \$5,252 from the state department of labor and industry occupational safety and health consultation division to be used to purchase two hydraulic chain saws which will reduce or eliminate hazardous exhaust and provide safer atmospheric conditions when working in trenches or confined spaces.

443 Lafayette Road N.
St. Paul, Minnesota 55155
www.dli.mn.gov



(651) 284-5005
1-800-342-5354
TTY: (651) 297-4198

May 15, 2013

Ms. Theresa Severance
City of Duluth
520 Garfield Ave
Duluth, MN 55806

Dear Ms. Theresa Severance:

Your Safety Grant application has been reviewed and we have recommended approval of your application to the Assistant Commissioner's Office. I am enclosing the original of your Safety Grant agreement for your signature. If you agree to accept the grant award, please sign your name in box two on page three of the original. **If you do not wish to accept the amount awarded, please contact my office and I will cancel your grant award.**

To expedite the processing of your application, please return the original of your signed agreement to my office, as soon as possible - preferably, within 7 days. Please contact Margie Mohr if you cannot return it within 14 days of the date of this letter. Once I receive your signed contract original, it will be sent to the Assistant Commissioner's Office for approval, and thereby, creating an effective date. You will then have 120 days from that effective date to complete your project.

Please be advised that you **cannot** purchase any equipment **relying on grant funds** or conduct any training **relying on grant funds** prior to the effective date of your contract. Any receipts, invoices or retainers dated prior to the agreement's effective date will not be covered by the grant.

A fully executed contract will be sent to you for your records along with a Certificate of Completion form. After you complete your purchase, project, or conclude your training, submit your request for reimbursement to me according to the instructions on the Certification of Completion Form.

Should you have any questions or concerns, you may contact our safety grants administrator at (651)284-5162, toll free at 1-800-731-7232, or via e-mail at dli.grants@state.mn.us.

Sincerely,

A handwritten signature in black ink that reads "Roslyn C. Robertson". The signature is written in a cursive, flowing style.

Roslyn C. Robertson
Workplace Safety Consultation Director

STATE OF MINNESOTA GRANT CONTRACT

This grant contract is between the State of Minnesota, acting through its Department of Labor and Industry, Occupational Safety and Health Consultation Unit ("State") and City of Duluth ("Grantee").

Recitals

1. Under Minn. Stat. § 79.253 the State is empowered to enter into this grant.
2. The State deems the performance of the safety grant project hereunder to be important to the safety of workers.
3. The Grantee represents that it is duly qualified and agrees to implement the project described in this grant contract to the satisfaction of the State.

Grant Contract

1 Term of Grant Contract

- 1.1 **Contract Effective date:** This Grant Contract shall be effective upon the date that the final required signature is obtained by the State, pursuant to Minn. Stat. § 16C.05, Subd. 2. The Grantee understands that no work relying on this Grant Contract should begin until all required signatures have been obtained and Grantee is notified by the State's Authorized Representative.
- 1.2 **Contract Expiration date:** One Year after the effective date, 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: 8. Liability; 9. State Audits; 10. Government Data Practices; 12. Publicity and Endorsement; 13. Governing Law, Jurisdiction, and Venue; and 15. Data Disclosure.

2 Grantee's Duties

- 1.1 The Grantee, who is not a state employee, will: perform and complete the **Hydraulic chain saws** purchase and implementation project activities according to the project description incorporated herein (16) and submitted in the grant application.
- 1.2 **Project Completion Date:** 120 days after the effective date of the contract, or until all obligations have been satisfactorily fulfilled, whichever occurs first. The project completion date can only be extended by request and must be received prior to the original project completion date. Said requests for extension will only be considered when circumstances exist that were not created by the grantee but are preventing the grantee from meeting the project completion date. Said extension(s), however, cannot extend the project completion date beyond the contract expiration date.

3 Time

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

4 Consideration and Payment

- 4.1 **Consideration.** The State will reimburse project costs under this grant contract as follows:
Reimbursement. The Grantee will be paid up to **\$5252.00** per 4.2. Grantee certifies that the dollar for dollar matching requirement for the grant will be met by Grantee. Any cost overruns incurred in the development and implementation of the project shall be the sole responsibility of the recipient.
- 4.2. **Payment**
Invoices. Subject to item 5, "Conditions of Payment", the State will promptly pay the Grantee, after the Grantee presents proof of payment/receipts and the certification of completion form, and the requirements of the project have been met, for the project costs expended and the State's Authorized Representative accepts the expenditures. Proof must be submitted timely and be based on the detailed records maintained of all expenditures related to the project and according to the following schedule:

Proof of payment/receipt(s) upon project completion and certification.

5 Conditions of Payment

The project described by the Grantee under this grant contract must be implemented as submitted 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 project grant until State has received a Certification of Completion Form and verified compliance with all requirements for the project. 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 Roslyn Robertson, WSC Director, or his/her successor, and has the responsibility to monitor the Grantee's performance and the authority to accept the project implementation provided under this grant contract. If the project performance is satisfactory, the State's Authorized Representative will certify acceptance on the Certificate of Completion Form submitted by Grantee.

The Grantee's Authorized Representative is Ms. Theresa Severance. If the Grantee's Authorized Representative changes at any time during this grant contract, the Grantee must immediately notify the State.

7 Assignment, Amendments, Waiver, and Grant Contract Complete

7.1 Assignment. The Grantee may neither assign nor transfer any rights or obligations under this grant contract 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 contract, or their successors in office.

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

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

7.4 Grant Contract Complete. This grant contract contains all negotiations and agreements between the State and the Grantee. No other understanding regarding this grant contract, 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 contract 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. Grantee agrees to an on-site safety and health consultation by State after the project is complete.

10 Government Data Practices

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, and with both it and with Minnesota Rules part 5203.0050, subp 1, as they apply to all data created, collected, received, stored, used, maintained, or disseminated by the Grantee under this grant contract. 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 contract 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 contract.

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 contract. Venue for all legal proceedings out of this grant contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

14 Termination

14.1 **Termination by the State.** The State may cancel this grant contract 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 items which accomplish safety goals, albeit short of project completion.

14.2 The State may cancel this Grant Contract immediately if the State finds that there has been a failure to comply with the provisions of this Grant Contract, 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 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 Other Provisions

Incorporation by reference - The safety grant project description in the proposal submitted to State on March 27, 2013 is attached and hereby incorporated by reference.

1. State Encumbrance Verification

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

(With delegated authority)

Signed: _____

Date: _____

Grant contract No. - _____ P.O No. - _____

3. State Agency

By: _____

Title: Deputy Commissioner

Date: _____

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: _____

Distribution:

Agency

Grantee

State's Authorized Representative - Photo Copy