



## STAFF REPORT

DATE: September 4, 2018

### **CONSENT**

ITEM #: 11

**TO:** City Council

**FROM:** Greg Malmquist, Fire Chief

**AGENDA ITEM:** ACCEPTANCE OF 50/50 DNR GRANT

**REVIEWED BY:** Kristina Handt, City Administrator

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**BACKGROUND:** The Fire Department has been seeking grant and donation funding from numerous sources for the purchase of the rescue equipment, as part of the approval of the Rescue/Engine. This DNR grant is part of that. We received approval from the DNR for an amount of \$3,500.00, 50/50 matching grant for the purchase of new firefighting helmets. We have budgeted in both 2018 and 2019 for the replacement of our firefighting helmets. We have helmets that are damaged and that have surpassed their recommended life cycle for replacement and are still in service. This grant will allow us to purchase the helmets all at one time, and free up budget dollars for the rescue equipment

**ISSUE BEFORE COUNCIL:** Should the Council approve the “2019 VOLUNTEER ASSISTANCE MATCHING GRANT” IN THE AMOUNT OF \$3,500.00?

**PROPOSAL DETAILS/ANALYSIS:** The approval of this grant would allow the fire department to move forward with the purchase of new helmets for the Firefighters and reallocate budget funds toward the purchase of rescue equipment.

**FISCAL IMPACT:** \$3,500 additional revenue

**OPTIONS:**

- 1) Approve acceptance of grant
- 2) Deny approval

**RECOMMENDATION:**

*If removed from the consent agenda:*

“Motion to approve acceptance of DNR grant for new firefighting helmets.”

**ATTACHMENTS:**

1. Copy of approval letter and contract.
2. Resolution 2018-102 accepting the donation



Minnesota Department of Natural Resources  
402 SE 11<sup>th</sup> Street - Grand Rapids, MN 55744

August 14, 2018

**Re: 2019 VOLUNTEER FIRE ASSISTANCE MATCHING GRANT (VFA)**

LAKE ELMO FIRE DEPT

Dear Fire Chief:

Attached is a grant contract between the Minnesota Department of Natural Resources, Division of Forestry in the amount of \$ 3500.00.

Please obtain *two* signatures on the grant contract and return back to me as soon as possible. I will obtain the final required signature and forward a copy of the fully executed grant contract to you when complete.

Work must not begin under this grant contract until fully executed and you have been notified by the State's Authorized Representative to begin the work.

If you have any questions regarding the processing of this grant contract, please let me know.

Respectfully,

*Shelly Serich*

Shelly Serich  
Rural Fire Programs Asst.  
[Shelly.Serich@state.mn.us](mailto:Shelly.Serich@state.mn.us)

[www.mndnr.gov/grants/ruralfire](http://www.mndnr.gov/grants/ruralfire)

## STATE OF MINNESOTA GRANT CONTRACT

This grant contract is between the State of Minnesota, acting through its Department of Natural Resources, Division of Forestry, 402 Southeast Eleventh Street, Grand Rapids, Minnesota 55744 ("State") and LAKE ELMO FIRE DEPT, 3510 LAVERNE AVE N, LAKE ELMO, MN 55042- ("GRANTEE").

### Recitals

1. Under Minn. Stat. 84.085 authorizes the Commissioner of Natural Resources, on behalf of the State, to accept and use grants of money for the United States or other grantors for conservation purposes not inconsistent with the laws of this state and in accordance with the purposes of the grant and applicable Federal and State laws and authorizes the Commissioner to make sub-grants of any money received to other agencies, units of local government, and private nonprofit corporations; and Minn. Stat. 88.067, as amended in Laws of Minnesota 2000, Chapter 231, Section 113, may make grants for procurement of fire suppression equipment and training of fire departments in techniques of fire control. The commissioner may require a local match for any grant. Grantee is a governmental unit and or is a fire fighting entity located in a rural area; and the State is empowered to enter into this grant.
2. The State is in need of fire department assistance to suppress wildland fires.
4. The Grantee represents that it is duly qualified and agrees to perform all services described in this grant contract to the satisfaction of the State.

### Grant Agreement

#### 1. Term of Grant Agreement

- 1.1 **Effective date:** This agreement becomes effective on August 1, 2018 or the date the State obtains all required signatures under Minnesota Statutes 16B.98, subdivision 5, whichever is later. **The Grantee must not begin work under this sub-grant agreement until this agreement is fully executed and the Grantee has been notified by the State's Authorized Representative to begin the work.** No reimbursements will be made until or upon the date that the final required signature is obtained by the State, pursuant to Minnesota Statutes Section 16B.98, subdivision 5. Per Minnesota Statutes Section 16B.98, subdivision 7, no payments will be made to the Grantee until this grant agreement is fully executed.
- 1.2 **Expiration Date:** Work on this project must be completed on or before June 1, 2019. The State is to be invoiced on or before June 15, 2019 or the contract will be canceled without further notification.
- 1.3 **Survival of Terms:** The following clauses survive the expiration or cancellation of this grant agreement: 9 Liability; 10 Audits; 11 Government Data Practices and Intellectual Property; 13 Endorsement; 14 Governing Law, Jurisdiction, and Venue; 16 Data Disclosure; 19 Monitoring; and 24 Additional Program Requirements
- 1.4 **Incur Expenses:** Notwithstanding Minnesota Statutes, section 16A.41, expenditures made on or after August 1, 2018 are eligible for reimbursement. This agreement becomes effective on August 1, 2018 or the date the State obtains all required signatures under Minnesota Statutes 16B.98, subdivision 5, whichever is later.

#### 2 Grantee's Duties

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

The Grantee will comply with required grants management policies and procedures set forth through Minnesota Statutes Section 16B.97, subdivision 4 (a) (1).

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 agreement. Any material change in the grant agreement shall require an amendment by the State (see Section 7.2).

The Grantee is responsible for maintaining a written 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.

The Grantee shall be responsible for the administration, supervision, management, record keeping and program oversight required for the work performed under this agreement.

Complete work specified in the Project Proposal attached hereto as Exhibit A. This Project Proposal shall be a part of this grant. Highest priority is indicated in the office use only box of Exhibit A; however, any of the listed projects or a combination of the listed projects on Exhibit A, may also qualify for this grant with written approval from the State of Minnesota.

Insure all equipment acquired through this grant must be used solely for prevention, suppression and control of fire. Report GPS locations of dry hydrants or water facilities constructed under this grant to Shelly Serich, Rural Fire Programs Assistant, 402 Southeast Eleventh Street, Grand Rapids, Minnesota 55744 or his/her successor.

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

4.1.1. **Compensation.** The Grantee will be paid in the amount not to exceed \$3500.00, based on the following computation:

4.1.2. **Matching Requirements.** The State shall reimburse Grantee for up to 50% of the reasonable net cost of items purchased or expenditures made, in accordance with the approved project proposal. This reimbursement shall not exceed the total amount of this grant.

Grant funds cannot be used by the Grantee as match or for reimbursement for any other grant or program without prior written authorization from the State's Authorized Representative.

4.1.3 **Travel Expenses.** Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Grantee as a result of this grant contract will not exceed \$00.00.

THE TOTAL STATE OBLIGATION FOR ALL COMENSATION AND REIMBURSEMENTS TO GRANTEE SHALL NOT EXCEED \$3500.00.

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

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. 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 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.

- 4.2.1. **Invoices.** The State will promptly pay the Grantee after the Grantee presents an itemized invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services. The State will promptly pay the Grantee after the Grantee presents an itemized invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services. Invoices must be submitted timely and upon completion by June 15, 2019.
- 4.2.2. **Federal funds.** Payments under this grant contract will be made from federal funds obtained by the State through the Cooperative Forestry Assistance Act of 1978, Public Law 95-313, CFDA number 10.664. 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.
- 4.2.3. **Unexpended Funds.** The Grantee must promptly return to the State any unexpended funds that have not been accounted for annually in a financial report to the State due at grant closeout.

## 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 Tim Oland, Rural Fire Programs Coordinator, DNR Forestry, 402 Southeast Eleventh Street, Grand Rapids, Minnesota 55744, 218-322-2688, 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. 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 the Fire Chief at (651) 770-5006. 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 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 Subcontractors, Contracting and Bidding Requirements

- 8.1. The Grantee agrees that if it subcontracts any portion of this project to another entity, the agreement with the subcontractor will contain all provisions of the agreement with the State. The Grantee also agrees to comply with Title 2 Code of Federal Regulations (CFR) 200.317 and 200.322 (if applicable-both apply to state entities only) as well as 2 CFR 200.318-321, and 2 CFR 200.323-326.
- 8.2. Per Minnesota Statute 471.345, grantees that are municipalities as defined in Subd. 1 must follow that Uniform Municipal Contracting Law if contraction funds from this grant contract agreement for any

supplies, materials, equipment, or the rental thereof, or the construction, alteration, repair, or maintenance of real or personal property.

8.2.1. If the amount of the contract is estimated to be \$3,000-25,000 the contract may be made either upon quotation or in the open market, in the discretion of the governing body. If the contract is made upon quotation it shall be based, so far as practicable, on at least two quotations which shall be kept on file for a period of at least one year after their receipt. Alternatively, municipalities may award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in Minnesota Statute 16C.28, Subd. 1, paragraph a, clause 2.

8.2.2. Any services and/or materials that are expected to cost less than \$3,000 do not require the solicitation of competitive quotations in accordance with 2 CFR 200.320(b). The Grantee must make an effort to equitably distribute these purchases.

## 9 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.

## 10 Audits (State and Single)

Under Minn. Stat. §16B.98, subd. 8 and 2 CFR 200.331, the Grantee 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.

All state and local governments, colleges and universities, and non-profit organizations that expend \$750,000 or more of Federal awards in a fiscal year must have a single audit according to the OMB Uniform Guidance: Cost Principles, Audit, and Administrative Awards Requirements for Federal Awards. This is \$750,000 total Federal awards received from all sources. If an audit is completed, forward a copy of the report to both the State's Authorized Representative and the State Auditor.

## 11 Government Data Practices and Intellectual Property

11.1. **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, and as it applies 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. The Grantee's response to the request shall comply with applicable law.

### 11.2. Intellectual Property Rights

Intellectual Property Rights Not Applicable.

#### 11.2.1. 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 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.

(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 9, 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.

## 12 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.

## 13 Publicity and Endorsement

13.1. **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.

13.2. **Endorsement.** The Grantee must not claim that the State endorses its products or services and the Grantee must adhere to the terms of 2 CFR 200.315.

## 14 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.

## 15 Termination

15.1. **Termination by the State.** The State may immediately terminate this grant contract 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.

15.2. **Termination for Cause.** The State may immediately terminate this grant contract 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.

## 16 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.

**17 American Disabilities Act**

The Grantee is subject to complying with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 et seq.) and all applicable regulations and guidelines. The Grantee must comply with the 2010 American Disabilities Act Standards for Accessible Design.

**18 Reporting Requirements**

The Grantee is bound to financial and performance reporting requirements as noted in the Minnesota Statutes Section 16B.97, subdivision 4 (a) (1).

**19 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 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.

**20 Invasive Species Prevention**

The DNR requires active steps to prevent or limit the introduction, establishment, and spread of invasive species during contracted work. The contractor shall prevent invasive species from entering into or spreading within a project site by cleaning equipment prior to arriving at the project site.

If the equipment, vehicles, gear, or clothing arrives at the project site with soil, aggregate material, mulch, vegetation (including seeds) or animals, it shall be cleaned by contractor furnished tool or equipment (brush/broom, compressed air or pressure washer) at the staging area. The contractor shall dispose of material cleaned from equipment and clothing at a location determined by the DNR Contract Administrator. If the material cannot be disposed of onsite, secure material prior to transport (sealed container, covered truck, or wrap with tarp) and legally dispose of offsite.

The contractor shall ensure that all equipment and clothing used for work in infested waters has been adequately decontaminated for invasive species (ex. zebra mussels) prior to being used in non-infested waters. All equipment and clothing including but not limited to waders, tracked vehicles, barges, boats, turbidity curtain, sheet pile, and pumps that comes in contact with any infested waters must be thoroughly decontaminated.

**21 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 December 2014 version](#).

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

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.

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.

**23 Recipient Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights**



## Recipient Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights

(a) This award and employees working on this financial assistance agreement will be subject to the whistleblower rights and remedies in the pilot program on Award Recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub.L. 112-239)

(b) The Award Recipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712

(c) The Award Recipient shall insert the substance of this clause, including this paragraph (c), in all sub awards or subcontracts over the simplified threshold. 42 CFR & 52.203-17 (as referenced in 42 CFR & 3.908-9)

**1. STATE ENCUMBRANCE VERIFICATION**

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

Signed: Shelly SenchDate: 8/14/2018**3. STATE AGENCY**By: \_\_\_\_\_  
(with delegated authority)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

SWIFT Contract/PO No(s). 146030/139241

**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: \_\_\_\_\_ By: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

## Distribution:

Agency

Grantee LAKE ELMO FIRE DEPT

State's Authorized Representative - Photo Copy

**CITY OF LAKE ELMO  
WASHINGTON COUNTY  
STATE OF MINNESOTA**

**RESOLUTION NO. 2018-102**

**A RESOLUTION ACCEPTING DONATED FUNDS FROM THE  
MINNESOTA DEPARTMENT OF NATURAL RESOURCES**

WHEREAS, Minnesota Statutes Section 465.03 provides that donations to the City be accepted by resolution of the City Council; and

WHEREAS, the Minnesota Department of Natural Resources has proposed contributing \$3,500 in the form of a 50/50 matching grant to the City of Lake Elmo for the purchase of firefighting helmets; and

WHEREAS, the City Council of the City of Lake Elmo agrees that said contribution would be of benefit to the citizens of Lake Elmo; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Lake Elmo, Minnesota, does hereby acknowledge and agrees to accept said donation of \$3,500 from the MN DNR on behalf of the citizens of Lake Elmo.

APPROVED by the Lake Elmo City Council on this 4<sup>th</sup> day of September, 2018.

By: \_\_\_\_\_  
Mike Pearson  
Mayor

ATTEST:

\_\_\_\_\_  
Julie Johnson  
City Clerk