

	U.S. ENVIRONMENTAL PROTECTION AGENCY Grant Agreement	GRANT NUMBER (FAIN): 00E02356 MODIFICATION NUMBER: 0 PROGRAM CODE: GL	DATE OF AWARD 06/21/2018
		TYPE OF ACTION New	MAILING DATE 06/28/2018
		PAYMENT METHOD: ASAP	ACH# 50745
		RECIPIENT TYPE: State	
RECIPIENT: Minnesota Department of Natural Resources 500 Lafayette Road P.O. Box 45 St. Paul, MN 55155 EIN: 41-6007162		PAYEE: Minnesota Department of Natural Resources 500 Lafayette Road St. Paul, MN 55155	
PROJECT MANAGER Melissa Sjolund 500 Lafayette Road P.O. Box 45 St. Paul, MN 55155 E-Mail: melissa.sjolund@state.mn.us Phone: 218-302-3245	EPA PROJECT OFFICER Rajen Patel 77 West Jackson Blvd., G-9J Chicago, IL 60604-3507 E-Mail: patel.rajen@epa.gov Phone: 312-886-5741	EPA GRANT SPECIALIST Kendra Kozak Assistance Section, MC-10J E-Mail: kozak.kendra@epa.gov Phone: 312-353-8834	
PROJECT TITLE AND DESCRIPTION Perch Lake Habitat Restoration Project in the St. Louis River Area of Concern (AOC), MN Minnesota Department of Natural Resources will restore 21 acres of aquatic and coastal habitat in the St. Louis River Estuary Area of Concern (AOC). Specifically, the project will enhance connectivity by increasing the width and capacity of the connecting channel between Perch Lake and the estuary to facilitate nutrient exchange and aquatic organism passage and restore deep and shallow coastal marsh habitats at Perch Lake for priority fish, wildlife and plant species including muskellunge, wild rice and marsh birds. This project will contribute to removal of two Beneficial Use Impairments within the AOC (loss of fish and wildlife habitat and degradation of benthos).			
BUDGET PERIOD 06/01/2018 - 09/30/2021	PROJECT PERIOD 06/01/2018 - 09/30/2021	TOTAL BUDGET PERIOD COST \$3,737,700.00	TOTAL PROJECT PERIOD COST \$3,737,700.00
NOTICE OF AWARD			
<p>Based on your Application dated 04/10/2018 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$3,512,700. EPA agrees to cost-share 93.98% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$3,512,700. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.</p>			
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)		AWARD APPROVAL OFFICE	
ORGANIZATION / ADDRESS U.S. EPA Region 5 Mail Code MCG10J 77 West Jackson Blvd. Chicago, IL 60604-3507		ORGANIZATION / ADDRESS U.S. EPA, Region 5 Great Lakes National Program Office 77 West Jackson Blvd., G-9J Chicago, IL 60604-3507	
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY			
Digital signature applied by EPA Award Official Bruce Sypniewski - Deputy Director, Resource Management Division			DATE 06/21/2018

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 3,512,700	\$ 3,512,700
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$ 225,000	\$ 225,000
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 3,737,700	\$ 3,737,700

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.469 - Great Lakes Program	Clean Water Act Section 118(c)(7) as Amended by PL 114-322	2 CFR 200 2 CFR 1500 and 40 CFR 33

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	1805HDX052	1819	B	05HBA	000BJ7XF1	4116			3,512,700
									3,512,700

Budget Summary Page: EPA-CEP-01 Perch
 Lake Habitat
 Restoration Project

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$0
2. Fringe Benefits	\$0
3. Travel	\$0
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$0
7. Construction	\$0
8. Other	\$3,737,700
9. Total Direct Charges	\$3,737,700
10. Indirect Costs: % Base <u>Not Applicable</u>	\$0
11. Total (Share: Recipient <u>6.02</u> % Federal <u>93.98</u> %.)	\$3,737,700
12. Total Approved Assistance Amount	\$3,512,700
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$3,512,700
15. Total EPA Amount Awarded To Date	\$3,512,700

Administrative Conditions

1. GENERAL TERMS AND CONDITIONS

The recipient agrees to comply with the current EPA general terms and conditions available at: <https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-2-2017-or-later>. These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at <http://www.epa.gov/grants/grant-terms-and-conditions>

2. GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES

MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E

MBE/WBE reporting is required in annual reports. Reporting is required for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the "Other" category that exceed the threshold amount of \$150,000, including amendments and/or modifications.

Based on EPA's review of the planned budget, this award meets the conditions above and is subject to the Disadvantaged Business Enterprise (DBE) Program reporting requirements. However, if recipient believes this award does not meet these conditions, it must provide [**SEE DBE COORDINATOR INFO LISTED BELOW**] with a justification and budget detail within 21 days of the award date clearly demonstrating that, based on the planned budget, this award is not subject to the DBE reporting requirements.

The recipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions are reportable, not just that portion which exceeds \$150,000.

When completing the annual report, recipients are instructed to check the box titled "annual" in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 30th of each year. Final reports are due by October 30th or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on total procurements. Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

MBE/WBE reports should be sent to

**Adrienne M. Callahan, Region 5 MBE/WBE Coordinator
USEPA, Acquisition and Assistance Branch
77 West Jackson Boulevard (MC-10J)
Chicago, IL 60604**

The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Good Faith Effort requirements as described in 40 CFR Part 33 Subpart C, and Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D and explained below.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements as described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

Accepting the Fair Share Objectives/Goals of Another Recipient

The dollar amount of this assistance agreement, or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is \$250,000, or more. The recipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA by the **Minnesota Pollution Control Agency** as follows:

MBE: 2%

WBE: 2%

By signing this financial assistance agreement, the recipient is accepting the fair share objectives/goals stated above and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as **Minnesota Pollution Control Agency**.

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404

The recipient has the option to negotiate its own MBE/WBE fair share objectives/goals. If the recipient wishes to negotiate its own MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The submission of proposed fair share goals with the supporting analysis or disparity study means that the recipient is **not** accepting the fair share objectives/goals of another recipient. The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within

120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
- (f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

3. EXTENSION OF PROJECT/BUDGET PERIOD EXPIRATION DATE

EPA has not exercised the waiver option to allow automatic one-time extensions for non-research grants under 2 CFR 200.308 (d)(2). Therefore, if a no cost time extension is necessary to extend the period of availability of funds (budget period), the recipient must submit a written request, including a justification as to why additional time is needed, revised timelines and milestones, and an estimated date of completion, to the EPA prior to the budget/project period expiration dates.

The extension request should be submitted to the EPA Project Officer with a courtesy copy to the EPA Grants Management Specialist.

4. PARTIAL FUNDING FOR PROPOSED ELIMINATED PROGRAMS

The **Total Approved Assistance Amount** identified on line 12 of the budget table of this award is contingent upon the availability of continued funding and final federal budget decisions. If a determination is made that affects this amount, your organization will be notified and this agreement will be amended.

Programmatic Conditions

1. ENVIRONMENTAL RESULTS - RECIPIENT PERFORMANCE REPORTING

All Recipients (other than recipients of State or Tribal Program grants under 40 C.F.R. Parts 35 Subparts A/B and 40 CFR Part 35, Subparts K and L)

Performance Reports: The recipient agrees to submit performance reports that include brief information on each of the following areas: 1) a comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement workplan for the period; 2) the reasons for slippage if established outputs/outcomes were not met; and 3) additional pertinent information, including, when appropriate, analysis and information of cost overruns or high unit costs.

The recipient agrees to inform EPA as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan.

2. MEETINGS / CONFERENCES / TRAVEL COSTS

Time and travel costs along with participation in professional meetings and conferences funded under this agreement shall be approved by the EPA Project Officer in advance. Although the EPA Project Officer may have approved this type of activity as a component of the workplan, the recipient (or its representative) seeking to attend professional meetings and conferences not covered/approved in the original scope of work, needs to obtain prior approval from an EPA Project Officer. Specifically, at least 45 days in advance, the recipient shall request approval of the EPA Project Officer for any travel plans not previously anticipated and not previously approved as part of this assistance agreement by providing the Project Officer with a description of the event, the location of the event, the event sponsor, travel dates, the recipient's role in the event, the number of travelers and estimated travel costs. The request should also include a justification describing why this travel is a necessary part of this assistance agreement. The recipient agrees that any travel requiring an increase in grant funds or a rebudgeting of funds from other cost categories of the approved budget must be approved in writing and/or by formal amendment to this agreement as applicable. In addition, the recipient understands that any international travel requires written prior approval by EPA since such travel requires clearance by EPA's Office of International Affairs and in certain instances, the US Department of State. The recipient understands that if it incurs travel costs of any kind without EPA's prior approval, it does so at its own risk.

3. SIGNAGE

The recipient shall ensure that a visible project identification sign (with the Great Lakes Restoration Initiative logo provided by the EPA Project Officer) is erected as appropriate at each on-the-ground protection or restoration project. Each sign must give project information and credit the Great Lakes Restoration Initiative and appropriate federal agencies for funding. The recipient will determine the design, placement, and materials for each sign. The GLRI logo should be accompanied with the statement indicating that the **MNDNR has** received financial support in the amount of **\$ 3,512,700 from the EPA.**

4. REPORTING

[A] Semi-annual progress reports: Starting with the first full reporting period after the issuance of the award, the recipient shall submit semi-annual progress reports (electronically) to the EPA Project Officer by **April 15 but no later than April 30** and by **October 15 but no later than October 30** of each year, through the life of the assistance agreement. Reporting periods shall be the 6 month periods from October 1 to March 31 and April 1 to September 30. Progress reports shall document progress in writing and in pictures, for the project during the immediately preceding reporting period and must contain sufficient information in order to ascertain that the workplan is being carried out as specified in the assistance agreement. Progress reports shall describe all of the following that apply:

- (1) Work accomplished for the period, quantifying results achieved. Specify any incremental and cumulative (from October 1, 2014 on) results achieved during the reporting period for all applicable GLRI Action Plan II measures (*i.e.*, the number of responses, exercises, acres, and/or miles for measures on the list at on page 5 of the GLRI Action Plan II: <http://www.greatlakesrestoration.us/actionplan/pdfs/glri-action-plan-2.pdf>), in accordance with any direction provided by your EPA project officer and the GLRI Action Plan II Measures Reporting Plan as periodically updated by the EPA at <http://www.epa.gov/great-lakes-funding>, particularly:

#

Measure of Progress

1.1.2

Area of Concern Beneficial Use Impairments Removed (cumulative)

4.1.2

Number of miles of Great Lakes shoreline and riparian corridors protected, restored and enhanced by GLRI-funded projects

4.1.3

Number of acres of Great Lakes coastal wetlands protected, restored and enhanced by GLRI-funded projects

- (2) Object Class Category changes;
- (3) Corrective actions;
- (4) Projected new work;
- (5) Percent completion of scheduled work;
- (6) Percent of budgeted amounts spent;
- (7) Any change in principal investigator;
- (8) Any change needed in project period,
- (9) Date and amount of latest drawdown request; and
- (10) Delays or adverse conditions which materially impair the ability to meet the outputs/outcomes specified in the assistance agreement workplan.

The EPA Project Officer must be able to determine that all mission support products, services, information or data generation and use, including technology development and verification, is performed in accordance with EPA policies and the assistance agreement. To develop your progress report you may use the outline at <http://www.epa.gov/great-lakes-funding>.

[B] Final Report: The Final Report shall incorporate project outputs and summarize the nature and

extent of the project, methodologies employed, significant events and experiences, a compilation of the data collected and results achieved. Results shall include the cumulative results achieved during the project period for all applicable GLRI Action Plan II measures described in element 1 of the Semiannual Progress Report condition above. The final report shall also include analysis of the data, conclusions, and recommendations. The final report shall incorporate photo documentation of the project and environmental progress under the project at appropriate phases, and appropriate illustrations, diagrams, charts, graphs, and maps to express the data and findings. In order for the report writing costs to be eligible under the award, they must be incurred before the project end date. Electronic and paper versions of the **Final Report shall be submitted no later than 90 days after the end of the project period**. All work products shall carry attribution to the U.S. EPA Great Lakes Restoration Initiative for funding assistance and should also acknowledge significant contributions by others. If applicable, the Final Report shall include:

- A database (Excel or similar format) of field and laboratory data including but not limited to lat-long, date, time, field observations, parameter data, laboratory analysis, QA duplicates/replicates
- Model files including input-output data, model code, model output, and peripheral and post-processing utilities.

[C] Geospatial Data Reporting

All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at <https://www.fgdc.gov/>

Location information (address information, latitude and longitude values, coverage, geospatial metadata, and other coordinate information) shall be reported for all areas of interest in this agreement (ex: sampling sites/areas, restoration sites/areas, etc.). All reports and supplemental data, text, and graphics shall be submitted to the EPA Project Officer in digital format as follows:

[a] Original electronic copy on CD or Email Attachments. Macintosh and Windows are acceptable. All major word processing and desktop publishing formats are acceptable. Digital graphics should be submitted in their original form. Any special fonts used within the document should also be provided, **OR** [b] Hypertext markup language, (HTML) **OR** [c] "PDF" version.

Contact Kenneth Klewin (klewin.kenneth@epa.gov, (312) 886-4794) with questions. All data, including geospatial data should be collected, acquired, processed, documented, stored, accessed, maintained, and retired through the use of complete, consistent, and integrated metadata.

[D] Subaward Recipients

The recipient must report on its subaward monitoring activities under [2 CFR 200.331\(d\)](#). Examples of items that must be reported if the pass-through entity has the information available are:

- I. Summaries of results of reviews of financial and programmatic reports.
- II. Summaries of findings from site visits and/or desk reviews to ensure effective subrecipient performance.
- III. Environmental results the subrecipient achieved.
- IV. Summaries of audit findings and related pass-through entity management decisions.
- V. Actions the pass-through entity has taken to correct deficiencies such as those specified at [2 CFR 200.331\(e\)](#), [2 CFR 200.207](#) and the [2 CFR Part 200.338](#) Remedies for Noncompliance.

5. CYBERSECURITY - STATES

(a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.

(b) (1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure.

For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO) and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR 200.331(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

6. QUALITY SYSTEM DOCUMENTATION

If this project has been determined to involve use of existing environmental data or collection of new environmental data (use or collection of environmental data), acceptable Quality System Documentation must be submitted to the EPA Project Officer within 90 days of the acceptance of this agreement. The recipient **may not incur cost** for work involving direct measurements or data generation, environmental modeling, compilation of data from literature or electronic media, and data supporting the design, construction, and operation of environmental technology until the EPA Project Officer, in concert with the EPA Quality Manager, has approved the Quality System Documentation.

7. COMPETENCY OF ORGANIZATIONS GENERATING ENVIRONMENTAL DATA

In accordance with Agency Policy Directive Number FEM-2012-02, Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, Recipient agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable, Recipient agrees to demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. Recipient shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at http://www.epa.gov/fem/lab_comp.htm or a copy may also be requested by contacting the EPA project officer for this award.

8. TIMELY FISCAL EXPENDITURES

The recipient must ensure funds are expended timely commensurate to the progression of Project Activities. To ensure compliance with unliquidated obligations (ULO) policies, the recipient must notify the EPA Project Officer of potential drawdown delays that exceed 180 days.

9. MANAGEMENT PRACTICE

Recipient agree to properly operate and maintain any best management practices or management

practices implemented through this award in accordance with design standards and specifications.

10. VOLUNTARY COST-SHARE

This award and the resulting federal funding of \$3,512,700 is based on estimated costs requested in the recipient's application dated . Included in these costs is a required cost-share contribution of \$ 225,000 by the recipient that the recipient included in its application dated April 10, 2018. The recipient must provide this matching contribution during performance of this award. While actual total costs may differ from the estimates in the recipient's application, EPA's participation shall not exceed the total amount of federal funds awarded.

If the recipient fails to provide the matching contribution during the period of award performance, and does not provide a satisfactory explanation, the Agency may consider this factor in evaluating future proposals from the recipient. In addition, if the matching contribution does not materialize during the period of award performance then EPA may reconsider the legitimacy of the award; if EPA determines that the recipient knowingly or recklessly provided inaccurate information in its application dated April 10, 2018, EPA may take action as authorized by 40 CFR Parts 30 or 31 and/or 2 CFR Part 180 as applicable.

11. DISPOSITION OF WASTES

Disposal of all wastes will be in accordance with State and Federal regulations, and is the responsibility of the recipient.

AMENDMENT NO. 1

TO

PARTNERSHIP AGREEMENT
FOR TECHNICAL, PLANNING AND ENGINEERING ASSISTANCE
BETWEEN THE DEPARTMENT OF THE ARMY AND
MINNESOTA DEPARTMENT OF NATURAL RESOURCES
FOR THE LOWER SAINT LOUIS RIVER, DULUTH HARBOR, MN
AREA OF CONCERN (AOC)

THIS AGREEMENT is entered into this 23rd day, of September, 2020, by and between the Department of the Army (hereinafter called the “Government”) represented by the District Engineer executing this Agreement, and the Minnesota Department of Natural Resources (MNDNR) (hereinafter called the “Sponsor”), represented by the MNDNR Commissioner or his designee executing the Agreement.

WITNESSETH, that:

WHEREAS, Section 401 of the Water Resources Development Act of 1990 (Public Law 101-640), as amended authorizes the Secretary of the Army to provide technical, planning and engineering assistance to States and local governments in the development and implementation of Remedial Action Plans (RAP) for Areas of Concern (AOC) in the Great Lakes identified under the Great Lakes Water Quality Agreement of 1978 and requires the non-Federal interests to contribute, in cash (contributed funds) or by providing in-kind contributions or services, thirty-five (35) percent of the cost of such assistance; and

WHEREAS, the Lower Saint Louis River Duluth Harbor, Minnesota has been identified as an Area of Concern under the Great Lakes Water Quality Agreement of 1978, which includes Duluth, MN and Superior, WI; and

WHEREAS, the Sponsor has identified the need for technical, planning, and engineering assistance as described in the Scope of Work (Appendix A) attached to this Agreement. The services will assist in developing and implementing the Remedial Action Plan for the St. Louis River Area of Concern (AOC); and

WHEREAS, the Sponsor has the authority and capability to provide a cash contribution or in-kind contributions or services; hereinafter set forth, and is willing to participate in the cost sharing and financing of the services in accordance with the terms of this Agreement; and

WHEREAS, the Sponsor has received funding that may only be used for work in the St. Louis River as appropriated by the Minnesota State Legislature from the Outdoor Heritage Fund, Minnesota Session Laws 2017 Chapter 91, Article 1, Section 2, Subd. 5(f); and

WHEREAS, the Sponsor is willing to deposit funds, in cash and perform certain work; hereinafter known as in-kind services, as defined in Article I.5 of this Agreement and contribute these in-kind services, as described in Appendix D. The total cash contribution and in-kind services described in Appendix C is equal to thirty-five (35) percent of the preliminary cost estimate, as credit toward its share of the cost of the Government’s technical, planning and engineering assistance; and

WHEREAS, the Government is authorized to accept and expend funds received from the Sponsor to assist in the development and implementation of the Remedial Action Plan for the St. Louis River Area of Concern.

NOW THEREFORE, the parties agree as follow:

ARTICLE I - DEFINITIONS

For the purpose of this Agreement:

1. The term, technical, planning and engineering assistance costs, shall mean all disbursements by the Government pursuant to this Agreement, from Federal appropriations or from funds made available to the Government by the Sponsor and all negotiated costs of work performed by the Sponsor pursuant to this Agreement. Technical, planning and engineering assistance costs shall include, but not be limited to: labor charges; direct costs; overhead expenses; supervision and administration costs; the costs of contracts with third parties, including termination or suspension charges; and any termination or suspension costs (ordinarily defined as those costs necessary to terminate ongoing contracts or obligations and to properly safeguard the work already accomplished) associated with this Agreement.
2. The term, phase, shall mean the time period for conducting an agreed amount of work based on available Federal funding.
3. The term, Scope of Work (SOW), means a description of the work to be performed, as shown in Appendix A. The SOW will be attached to this Agreement and not be considered binding on either party and is subject to change by the Government, in consultation with the Sponsor.
4. The term, fiscal year, shall mean one fiscal year of the Government. The Government fiscal year begins on October 1 and ends on September 30.
5. The term, in-kind service (s), shall mean a service, to be provided by the Sponsor, which is compatible, as determined by the Government, with the technical assistance being provided under this Agreement. The in-kind services, described in Appendix D, are fixed fee items. The dollar value of the services, shown in Appendix C, is based on the Sponsor's proposal that has been reviewed and approved by the Government.
6. The term, negotiated costs, shall mean the costs of in-kind services to be provided by the Sponsor in accordance with the SOW.
7. The term, Preliminary Cost Estimate and Cost Apportionment, shall mean a preliminary estimate of costs and the estimated Federal and non-Federal share of costs and/or in-kind services for the technical, planning, and engineering assistance established by the Government for which cash payments are to be made to the Government, and/or in-kind services are to be provided as a credit toward cash payment. The Preliminary Cost Estimate and Cost Apportionment may change subject to negotiations. All such cash payments from the Sponsor shall be made by Electronic Funds Transfer (EFT) for the full amount of the phase in accordance with procedures established by the Government.

ARTICLE II - OBLIGATIONS OF PARTIES

1. The Government, using Sponsor contributed funds and/or in-kind services and Congressionally appropriated funds, shall provide the required technical, planning, and engineering assistance, substantially in compliance with the SOW for each phase as attached in Appendix A and in conformity with applicable state and federal laws and regulations and mutually acceptable standard of engineering practice. The Sponsor, using non-Federal funds, shall provide in-kind services substantially in compliance with the SOW attached as Appendix A and in conformity with applicable state and Federal laws and regulations and mutually acceptable standard of engineering practice.
2. The Government shall contribute sixty-five (65) percent of the total cost of providing the technical, planning and engineering assistance as specified in the Preliminary Cost Estimate and Cost Apportionment for the comprehensive assistance as shown in Appendix B. The Sponsor shall contribute thirty-five (35) percent of the total cost, in cash and/or in-kind services as specified in Preliminary Cost Estimate and Cost Apportionment for the comprehensive assistance as shown in Appendix B, of the technical, planning and engineering assistance set forth in the SOW. Total cost of the assistance is currently estimated at **\$615,000** as specified in Appendix B.
3. For each phase of assistance, the Government shall contribute sixty-five (65) percent of the total cost of providing the technical, planning and engineering assistance and the Sponsor shall contribute thirty-five (35) percent of the total cost, in cash and/or in-kind services. The Preliminary Cost Estimate and Cost Apportionment for the current phase are shown in Appendix C.
4. No Federal funds may be used to meet the Sponsor's cost share of technical, planning and engineering assistance costs under this Agreement unless such Federal funds have been appropriated for such purpose and allocated for such technical, planning and engineering assistance.
5. The award and administration of any contract with a third party for services in furtherance of this Agreement, which obligates Federal appropriations, shall be exclusively within the control of the Government.
6. Before a party to this Agreement may bring suit in any court concerning any issues relating to this Agreement, such party must first seek in good faith to resolve the issue through negotiation or other form of nonbinding alternative dispute resolution mutually acceptable to the parties. The respective parties will bear their own costs.
7. At any time by mutual consent of the parties, this Agreement and/or SOW may be amended in writing and include signatures by the appropriate authorities of the respective parties.
8. This Agreement shall terminate at the completion of those technical, planning and engineering assistance activities identified in the SOW; or, this Agreement may be terminated before completion upon agreement of the respective parties.
9. If the parties agree to terminate before completion, the Government shall prepare a final accounting of the costs for technical, planning, and engineering assistance provided, which display: (1) costs incurred by the Federal Government; (2) cash contributions and/or in-kind contribution or services by the Sponsor; and (3) disbursement by the Government of all

funds. Subject to the availability of funds, within ninety (90) days after the final accounting, the Government shall reimburse the Sponsor for non-Federal cash contributions that exceed the Sponsor's required share of the total costs. Within ninety (90) days after the final accounting, the Sponsor shall provide the Government any cash contributions required to meet the Sponsor's required share of the total costs of the technical, planning, and engineering assistance provided, as provided in Article II, paragraph 2.

10. In the event that any (one or more) of the provisions of this Agreement is found to be invalid, illegal, or unenforceable, by a court of competent jurisdiction, the validity of the remaining provisions shall not in any way be affected or impaired and shall continue in effect until the Agreement is completed.
11. This Agreement shall commence on the date the last signatory signs this Agreement (the "Commencement Date").
12. In addition to the ongoing, regular discussions of the parties in the delivery of the Project, the Government and the Non-Federal Sponsor may establish a Project Coordination Team to discuss significant issues or actions. The Government's costs for participation on the Project Coordination Team shall not be included in the design and construction costs that are cost shared but shall be included in calculation the Federal Participation Limit. The Non-Federal Sponsor's costs for participation on the Project Coordination Team shall not be included in the design and construction costs that are cost shared and shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

ARTICLE III - MAINTENANCE OF RECORDS AND AUDIT

1. The parties shall develop procedures for the maintenance by the Non-Federal Sponsor of books, records, documents, or other evidence pertaining to costs and expenses for a minimum of six years after the final accounting. The Non-Federal Sponsor shall assure that such materials are reasonably available for examination, audit, or reproduction by the Government.
2. The Government may conduct, or arrange for the conduct of, audits of the Project. Government audits shall be conducted in accordance with applicable Government cost principles and regulations. The Government's costs of audits shall not be included in total project costs, but shall be included in calculation the Federal Participation Limit.
3. To the extent permitted under applicable Federal laws and regulations the Government shall allow the Non-Federal Sponsor to inspect books, records, documents or other evidence pertaining to costs and expenses maintained by the Government, or at the request of the Non-Federal Sponsor, provide to the Non-Federal Sponsor or independent auditors any such information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of non-Federal audits shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

The parties having read and understood the foregoing terms of the Agreement do by their respective signature dated below, hereby agree to the terms hereof.

DEPARTMENT OF THE ARMY:

BY: Scott M. Katalenich Date: 2020.09.22
09:53:41 -04'00'
Scott M. Katalenich
Lieutenant Colonel, U.S. Army
District Engineer, Detroit District

Date: September 22, 2020

MINNESOTA DEPARTMENT OF NATURAL

**STATE ENCUMBRANCE
VERIFICATION**

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

By: Kim Montgomery
Date: June 10, 2020

SWIFT
PO # 3-171984

Contr. # 149607

DS
BP

RESOURCES:

DocuSigned by:
BY: Dave Olfelt
Da: 850B10991E174F7...
Director, Division of Fish and Wildlife

Date: July 23, 2020

COMMISSIONER OF ADMINISTRATION

As delegated to Materials Management Division

DocuSigned by:
By: PaZong Thao
5A76479B1B5340E...
Name: PaZong Thao

Date: July 29, 2020

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

DocuSigned by:
BY Dave Alfelt
850B10991E174F7...lt
Director, Division of Fish and Wildlife
Minnesota Department of Natural Resources

Date: July 23, 2020

CERTIFICATE OF AUTHORITY

I, Sherry Enzler, do hereby certify that I am a legal officer of the Minnesota Department of Natural Resources, that the Minnesota Department of Natural Resources is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the Minnesota Department of Natural Resources in connection with the Technical, Planning and Engineering Assistance for the Lower St. Louis River, Duluth Harbor, MN AOC project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement and that the person who has executed this Agreement on behalf of the Minnesota Department of Natural Resources has acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this July 24, 2020 day of _____, 2020.

DocuSigned by:
Signature Sherry Enzler _____
8B2422A00D08497...
General Counsel,
Minnesota Department of Natural Resources

**AMENDMENT 1 TO
APPENDIX A
SCOPE OF WORK (SOW)
FOR TECHNICAL, PLANNING AND ENGINEERING ASSISTANCE
ASSOCIATED WITH THE REMEDIAL ACTION PLAN FOR THE LOWER SAINT
LOUIS RIVER, DULUTH HARBOR, MN
AREA OF CONCERN (AOC)**

TITLE: Technical, Planning and Engineering Assistance Associated With the Remedial Action Plan for the Lower St. Louis River, Duluth Harbor, MN. AOC

CWIS/P2: 458620

COST SHARING: 65% - FED, 35% - NONFED

DATE OF AMENDMENT 1 REQUEST JUSTIFICATION: March 2020

PROJECT SPONSOR: Minnesota Department of Natural Resources (MNDNR)

PURPOSE: Provide the technical, planning and engineering assistance under the authority of Section 401 (a) of the Water Resources Development Act of 1990, as amended.

The assistance will consist of, but is not limited to, project management, coordination with all agencies involved in the Remedial Action Plan for the AOC, strategic planning, environmental and engineering design and bid specifications, hydrologic modeling, risk assessment, permitting, and monitoring plans.

SCOPE OF WORK: The Department of the Army (Government) and MNDNR (Sponsor) will develop a detailed work plan for the sites(s) identified in the Remedial Action Plan for the project area (AOC) to be implemented over a two year period. The initial phase of work will establish an overall Project Management Plan, change/adaptive management plan, and a communication plan. Detailed work plans for the site(s) will be developed based upon costs and funding and will be accomplished through subsequent work phases. Each work phase will result in products that provide value independent of future phases.

The following work site in the project area is to be included in the initial work phase with the intent to develop a detailed site specific work plan to include those activities listed. Upon completion, the Government will deliver products of this action to the Sponsor. Reported costs are estimated through the project period.

1. *Perch Lake Site*. This 28 acre site will include restoration of shallow bay habitat, reconnection to the estuary, and use of excess sediment as biological medium and seed source for restoration sites elsewhere in the AOC. Pre-construction work will consist of investigation of methods to restore hydrologic connectivity, shallow bay habitat restoration feasibility study, and initial engineering documentation in cooperation with appropriate highway and road authorities, such as Minnesota Department of Transportation. Government staff, contractor(s) and project manager will work directly with the site team and the MN Land Trust during the planning process. The Government will develop a

conceptual plan, incorporate stakeholder and partner engagement, and build consensus on design concept. They will provide a feasibility analysis, archeological surveys, hydrologic modeling, post-project monitoring plan and other design strategies for the project. They will prepare preliminary to final engineering designs by April 14, 2021, and costs ready for bid package development by April 14, 2021. The Government will provide technical input in the application for all relevant permits, lease agreements/easements for the project.

\$515,000.00

2. *Operational Capacity/Project Management.* In alignment with the management process identified in the July 2013 AOC Remedial Action Plan Update, the Government will assist with Interagency Coordination including but not limited to: provide a Corps PM Proxy; travel; vertical reporting; quarterly fiscal and program progress reporting; and assistance with integration and critical path determination of AOC activities. The Government will submit semi-annual reports based on expenditures made and work performed in the format prescribed by the Sponsor so that the Sponsor can submit reports for each appropriation as required to the Lessard-Sams Outdoor Heritage Council (LSOHC). Reports must be submitted by January 20 and July 20, of each year. \$30,000.00.
3. *Risk Assessment/Monitoring.* The Government will provide expert technical support for the review and assessment of risks that may result from movement of in-place sediments and the placement of dredged material for habitat restoration. Proposed dredged material placement options will be reviewed for compliance with Section 404 of the Clean Water Act (CWA) requirements which include assessment of the potential short-term or long-term effects of a proposed discharge of dredged material on the physical, chemical, and biological components of the aquatic environment. Section 404(b) (1) Guidelines requires consideration of cumulative and secondary impacts on aquatic ecosystem structure/function that may result from changes in physical substrate, water circulation, suspended particulate/turbidity, and contaminant concentrations. \$40,000.00
4. *Contract Administration.* The Government will provide contract administration including but not limited to: contractor coordination, compliance and enforcement; issue resolution; Dr. Check's web-based consolidated review process for contractor oversight, quality control, and scope of work consultation. \$5,000.00
5. *Contracting.* The Government will provide contract procurement consistent with Federal Laws and Army regulations including but not limited to: Scope of Work review; negotiation assistance; proposal review, posting of solicitation, compliance review, vertical coordination, contract award, and payment approval. \$10,000.00
6. *Contingency.* Funds set aside to address items including but not limited to: Unforeseen changes in site conditions such as a flood, storm, or ice events, discovery of an unknown historic item(s); unforeseen changes in commodity prices; unforeseen elements that need characterization or design, unforeseen data gaps, HTRW concerns, contract delays or modifications. \$15,000.00

**AMENDMENT 1 TO
APPENDIX B
FOR TECHNICAL, PLANNING AND ENGINEERING ASSISTANCE
FOR THE LOWER SAINT LOUIS RIVER, DULUTH HARBOR, MN
AREA OF CONCERN (AOC)**

- 1. Cost Estimate:** The cost estimate, established by the Government and provided below, is for multi-year assistance of the Corps of Engineers' under the Great Lakes Remedial Action Plan (RAP) Program for the Lower St. Louis River/Duluth Harbor AOC project. The Minnesota Department of Natural Resources (MNDNR) is the non-federal Sponsor. Below is a budgetary estimate of the up-coming project. Actual costs may differ depending on available federal funds at the time of the project.

PRELIMINARY COST ESTIMATE				
Item No.	Work Activity	Federal Share (\$)	Non-Federal Share (\$)	Total Cost (\$)
001	Perch Lake	\$334,750	\$180,250	\$515,000
002-006	Project Management, Contracting and Risk Assessment.	\$65,000	\$35,000	\$100,000
TOTALS		\$399,750	\$215,250	\$615,000

- 2. In-Kind Services:** There are no in-kind services.

- 3. Cost Apportionment:** The Federal cost responsibility and non-Federal responsibility are summarized below:

MNDNR (Non-Federal share).....	\$ 215,250.00
U.S. Army Corps of Engineers (Federal share).....	\$ 399,750.00
Total Federal Share + Non-Federal Share =	\$ 615,000.00

**AMENDMENT 1 TO
APPENDIX C**

PRELIMINARY COST ESTIMATE AND COST APPORTIONMENT

- 1. Cost Estimate:** The cost estimate, established by the Government and provided below, is the Corps of Engineers' assistance under the Great Lakes RAP Program to the Lower St. Louis River, Duluth Harbor, MN AOC and the Minnesota Department of Natural Resources (MNDNR), the Sponsor.

PRELIMINARY COST ESTIMATE				
Item No.	Work Activity	Federal Share (\$)	Non-Federal Share (\$)	Total Cost (\$)
001	At the site known as Perch Lake:	\$334,750	\$180,250	\$515,000
002	Operational Capacity/Project Management	\$19,500	\$10,500	\$30,000
003	Risk Assessment and monitoring:	\$26,000	\$14,000	\$40,000
004	Contract Administration: Contractor coordination, compliance, and enforcement. Issue resolution. Dr. Check's oversight.	\$3,250	\$1,750	\$5,000
005	Contracting: Proposal review, posting of solicitation, compliance review, vertical coordination, payment approval	\$6,500	\$3,500	\$10,000
006	Contingency: Address unforeseen items as listed in Appendix A	\$9,750	\$5,250	\$15,000
SUB-TOTALS		\$399,750	\$215,250	\$615,000
TOTALS		\$399,750	\$215,250	\$615,000

- 2. In-Kind Services:** There are no in-kind services.

- 3. Cost Apportionment:** The Federal cost responsibility and non-Federal responsibility are summarized below:

The MNDNR (Non-Federal share: cash)	\$ 215,250
The MNDNR (Non-Federal share: in-kind services).....	\$ 0,000
U.S. Army Corps of Engineers (Federal share).....	<u>\$ 399,750</u>
Total Federal Share + Non-Federal Share =	\$615,000

**AMENDMENT 1 TO
APPENDIX D
IN-KIND WORK
FOR THE ST. LOUIS RIVER – DULUTH HARBOR
AREA OF CONCERN (AOC)**

Minnesota Department of Natural Resources (MNDNR) financial match contribution (35% non-federal share) = \$215,250.00

Portion of 35% needed in Cash:

Minnesota Department of Natural Resources
Total Contribution needed: \$215,250.00

In-Kind Services Portion of 35%:

There are no in-kind services.