

Minnehaha Creek Watershed District

REQUEST FOR BOARD ACTION

MEETING DATE: January 10, 2019

TITLE: Authorization to execute a grant agreement with the Minnesota Department of Natural Resources for Conservation Partners Legacy Grant funding

RES.NUMBER: 19-005

PREPARED BY: Laura Domyancich

E-MAIL: Idomyancich@minnehahacreek.org **TELEPHONE:** (952) 641-4582

REVIEWED BY: Administrator Counsel Program Mgr.: Michael Hayman
 Board Committee Engineer Other

WORKSHOP ACTION:

<input type="checkbox"/> Advance to Board mtg. Consent Agenda.	<input type="checkbox"/> Advance to Board meeting for discussion prior to action.
<input type="checkbox"/> Refer to a future workshop (date):_____	<input type="checkbox"/> Refer to taskforce or committee (date):_____
<input type="checkbox"/> Return to staff for additional work.	<input type="checkbox"/> No further action requested.
<input checked="" type="checkbox"/> Other (specify): Requesting final action January 10, 2019	

PURPOSE or ACTION REQUESTED:

Authorization to execute a grant agreement with the Minnesota Department of Natural Resources for Conservation Partners Legacy Grant funding for vegetation improvements as part of the Arden Park restoration project.

PROJECT/PROGRAM LOCATION:

Arden Park, Edina, MN

PROJECT TIMELINE:

September 17, 2018	Grant application deadline
December 2018	Projects selected for funding through Conservation Partners Legacy (CPL) Grant
January 2019	Grant period begins
June 30, 2021	Close of CPL grant period

PROJECT/PROGRAM COST:

Fund name and number: 54th Street Stream Restoration (300-3147)
Current Budget: \$3,256,322
Expenditures to date: \$648,075
Requested amount of funding: \$0

PAST BOARD ACTION:

August 23, 2018 – Authorization to apply for Conservation Partners Legacy Grant Funding (18-087)

SUMMARY:

In 2016, the Board of Managers appointed an Investment Task Force to initiate planning to increase the volume of outside funds supporting MCWD's capital improvement program. With Board concurrence, the Task Force established the following goals:

1. Obtain ongoing supplemental funding (larger than one-time project specific grants) to implement landscape scale restoration and implementation objectives identified within priority focal subwatershed plans, such as Minnehaha Creek.
2. Increase one-time funding for specific capital improvements identified through responsive track planning.
3. Obtain one-time or ongoing supplemental funding for MCWD programs, historically funded through levy resources (land management, data collection, education and communications, permitting, operations)

Accordingly, staff continues to target one-time, project specific, supplemental funding for priority activities. Each year, staff evaluates the District's Capital Improvement Plan to determine which projects are well-positioned to apply for grant funding, and the Arden Park restoration project was identified as being aligned with the Conservation Partners Legacy (CPL) Grant Program.

The CPL Grant Program provides competitive matching grants up to \$400,000. Evaluation criteria focus on habitat benefits related to the restoration of forest, wetlands, and prairies which also promote public benefits such as wildlife-based recreation opportunities. Based on the combination of habitat restoration and community benefits planned for Arden Park, in September 2018 staff applied for funding to the CPL Grant program for habitat restoration work to be undertaken as part of the Arden Park project. After the submissions were reviewed, the project was selected for funding in the amount of \$22,500.

As part of the application process, MCWD staff submitted a work plan detailing plans to restore the upland woodland areas of the park adjacent to Minnehaha Creek by replanting with native trees and shrubs in an effort to improve the creek system as a whole. This work continues earlier successful creek, wetland, and riparian restoration along Minnehaha Creek in St. Louis Park and Hopkins, and further downstream in Edina and Minneapolis. It is the goal of MCWD and the City of Edina to engage in restoration from a systems approach and consider how to ensure discrete elements of the project align to attain maximum improvements to both habitat and water quality.

The grant program is administered on a reimbursement basis with a minimum 10% cost share by the grantee. The District will provide an in-kind cost share of \$5000 through construction oversight by staff during the restoration installation.

The grant agreement is effective from the date of contract execution through June 30, 2021, which aligns with the installation and warranty establishment period for the Arden Park Restoration project.

Staff recommends the District Board of Managers approve the grant agreement and authorize its execution by the District Administrator.

Attachments

1. CPL grant agreement and attachments

RESOLUTION

RESOLUTION NUMBER: 19-005

TITLE: **Authorization to execute a grant agreement with the Minnesota Department of Natural Resources for Conservation Partners Legacy grant funding**

WHEREAS, the MCWD Board of Managers' Investment Task Force established a goal to increase one-time funding for specific capital improvements identified through responsive track planning; and

WHEREAS, pursuant to Resolution 18-087, the MCWD Board of Managers authorized staff to apply for grant funding for the Arden Park Restoration Project through the Conservation Partners Legacy (CPL) Grant program; and

WHEREAS, the Minnesota Department of Natural Resources (MN DNR) administers the grant program for the restoration, enhancement, and protection of Minnesota's wetlands, forests, prairies, and habitat for fish and wildlife; and

WHEREAS, the CPL Grant program has selected the Arden Park Restoration Project for funding in the amount of \$22,500 to restore upland habitat adjacent to Minnehaha Creek.

NOW, THEREFORE, BE IT RESOLVED, that the MCWD Board of Managers hereby approves the Grant Agreement between the District and the State of Minnesota, acting through its Department of Natural Resources for appropriated Conservation Partners Legacy Grant funds in the amount of \$22,500 for the Arden Park Restoration Project, and authorizes the District Administrator to execute the grant agreement, with any further non-substantive changes and on advice of counsel.

Resolution Number 19-005 was moved by Manager _____, seconded by Manager _____.
Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: January 10, 2019

Secretary Date: January 10, 2019

**CONSERVATION PARTNERS LEGACY GRANT PROGRAM
ENCUMBRANCE WORKSHEET**

Minnehaha Creek Watershed District/ Arden Park Habitat Restoration

State Accounting information:

SWIFT Contract Doc. Type: _____ SWIFT Contract #: 151651
 SWIFT Contract Line # (Annual Plans): _____ SWIFT Purchase Order #: 3000 144793

Agency: R2901	Submitted By: Kathy Varble	Origin: A24	Vendor #: 0000225729	Category Code: 84101501
Total Amount of Contract for ALL years: \$22,500		Total Amount of Contract: \$ 22,500		For FY: 19
Total Amount of Contract:		For FY:	Total Amount of Contract: \$	For FY:

Contract Start Date: Upon Execution Speedchart Name: _____
 Contract Expiration Date: June 30, 2021 Speedchart Number: _____

Grantee Name and Address: Minnehaha Creek Watershed District
15320 Minnetonka Blvd
15320 Minnetonka Blvd
Minnetonka, MN 55345

Did you remember to:

Check for debarred vendor? Yes No

Check for annual plan limit? Yes No

Work on state lands? Yes No

PO Reference: **KLV-FY19 CPL Arden Park Habitat Restoration**

Description: **FY2019 CPL 1; Minnehaha Creek Watershed District, Arden Park Habitat Restoration. 1351**

Statewide/ Agency Reporting Funding String

Line	Budget/ Bond Year	Amount	Fund	FinDeptID	AppropID	Account	Statewide Cost	Agency Cost 1	Agency Cost 2
1	19	\$22,500	2300	R2936725	R296418	441502		2W205	

Project/ Grant Reporting Funding String

Line	PC Business Unit	Project	Activity	Source Type	Category	Sub-Category

State Accounting Information PO Number: _____

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STATE OF MINNESOTA
CONSERVATION PARTNERS LEGACY GRANT PROGRAM
GRANT CONTRACT

Minnehaha Creek Watershed District/ Arden Park Habitat Restoration

This grant contract is between the State of Minnesota, acting through its Commissioner of Natural Resources, ("State") and Minnehaha Creek Watershed District, 15320 Minnetonka Blvd, Minnetonka, MN 55345 ("Grantee").

Recitals

1. Under Minnesota Laws 2017, Chapter 91, Article 1, Section 2, Subd. 5(j), and Minnesota Statute § 84.026 the State is empowered to enter into this grant.
2. The State is in need of habitat work on public lands to improve habitat for fish, game, and wildlife and to improve public recreational opportunities.
3. 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. Pursuant to [Minn.Stat. §16B.98](#), Subd. 1, the Grantee agrees to minimize administrative costs as a condition of this grant.

Grant Contract

1 Term of Grant Contract

- 1.1 **Effective date:** The date the State obtains all required signatures under [Minn. Stat. §16B.98](#), Subd. 5. Per, [Minn.Stat. §16B.98](#) Subd. 7, no payments will be made to the Grantee until this grant contract is fully executed. **The Grantee must not begin work under this grant contract until this contract is fully executed and the Grantee has been notified by the State's Authorized Representative to begin the work.**
- 1.2 **Expiration date:** June 30, 2021, 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: 2.5. Signage; 11. Liability; 13. State Audits; 14. Government Data Practices and Intellectual Property Rights; 15. Data Compatibility and Availability Requirements; 16. Publicity and Endorsement; 17. Governing Law, Jurisdiction, and Venue; 23. Data Disclosure; and 24. Use of Funds for Match or Reimbursement.

2 Duties

Grantee's Duties

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

- 2.1 Comply with required grants management policies and procedures set forth through [Minn.Stat. §16B.97](#), Subd. 4 (a) (1).
- 2.2 Perform each of the duties outlined in Attachment A, Work Plan, which is attached and incorporated into this grant contract. Any changes to the Work Plan must have prior written approval from the State's Authorized Representative.
- 2.3 Apply for and receive all necessary approvals and permits to complete the project and comply with all applicable local, state and federal laws, ordinances, rules, and regulations. This includes all legal restrictions and requirements contained in Minnesota Laws 2017, Chapter 91, Article 1, Section 2, and MN Statute 97A.056.
- 2.4 Meet all grant program requirements, as described in the *Conservation Partners Legacy Grant Program (CPL) Request for Proposal*, which is incorporated into this grant contract by reference. The *Request for Proposal (RFP)* may be located at <http://files.dnr.state.mn.us/assistance/grants/habitat/cpl/fy17-rfp.pdf>.
- 2.5 Erect signage in accordance with Minnesota Laws 2009, Chapter 172, Article 5, Section 10, and MN Statute 97A.056. Signs have been designed and created and will be ordered and mailed to Grantee towards the end of the grant period. Grantee is not responsible for the cost of signs but is responsible for placing signs according to MN Laws.
- 2.6 Submit a progress report based on expenditures made and work performed during the previous year, in a form prescribed by the State, by December 31 of each year during the term of this grant contract. A final report must be submitted prior to or with the request for final payment.

- 2.7 To provide match as pledged in the approved Work Plan in non-state cash or in-kind services for the costs incurred for the completion of the Project.
- 2.8 Follow all Invasive Species regulations, policies and procedures of the Department of Natural Resources (DNR) to prevent or limit the introduction, establishment, and spread of invasive species (see section 4.2). This requirement applies to all activities performed on all lands under this grant contract and is not limited to lands under DNR control or public waters.

State's Duties

- 2.9 To provide Grantee up to \$22,500 for the costs incurred for the completion of the Project.
- 2.10 For grants over \$50,000, the State's Authorized Representative(s) or other designated State Representative will conduct at least one monitoring visit per grant period. For grants over \$250,000, these visits will be on an annual basis. A monitoring visit may be in person or by telephone.

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 Project Requirements

- 4.1 **Vegetation Requirements.** All projects funded in whole or in part by this grant use only seed mixes or plant lists approved by the Land Manager of the project site. Approval by land manager should be kept on file by grantee for auditing purposes.
- 4.2 **Invasive Species Prevention.** The DNR requires active steps to prevent or limit the introduction, establishment, and spread of invasive species during all activities performed on all lands under this grant contract. The grantee and/or hired 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 grantee/contractor furnished tool or equipment (brush/broom, compressed air or pressure washer) at the staging area. The grantee/contractor shall dispose of material cleaned from equipment and clothing at a location determined by the land manager. 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 grantee/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.

- 4.3 **Project Sites.** All restoration and enhancement projects funded with this grant must be on land permanently protected by a conservation easement or public ownership or in public waters as defined in Minnesota Statutes, section 103G.005, subdivision 15.
- 4.4 **Restoration and Management Plan.**
 - (a) For all restorations, prepare and retain an ecological restoration and management plan that, to the degree practicable, is consistent with current conservation science and ecological goals for the restoration site. Consideration should be given to soil, geology, topography, and other relevant factors that would provide the best chance for long-term success and durability of the restoration. The plan shall include the proposed timetable for implementing the restoration, including, but not limited to, site preparation, establishment of diverse plant species, maintenance, and additional enhancement to establish the restoration; identify long-term maintenance and management needs of the restoration and how the maintenance, management, and enhancement will be financed; and use the current conservation science to achieve the best restoration.
 - (b) The Restoration and Management Plan shall be prepared on a form provided by the State's Authorized Representative.

- 4.5 **Timely written contact of Conservation Corps Minnesota.** All grantees must give consideration to and make timely written contact with the Conservation Corps Minnesota or its successor for consideration of possible use of their services to contract for restoration and enhancement services. A copy of the written contact must be filed with the State's Authorized Representative within 10 days of grant execution.
- 4.6 **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: http://files.dnr.state.mn.us/natural_resources/npc/bmp_contract_language.pdf.

5 Additional Restrictions

CPL funded projects may not be used as future mitigation for any loss or destruction of habitat.

6 Consideration and Payment

6.1 **Consideration.** The State will pay for all services performed by the Grantee under this grant contract as follows:

(a) **Compensation.** The Grantee will be paid according to the breakdown of costs contained in Attachment A, which is attached and incorporated into this grant contract. Partial payments are allowed. Grantees may vary by 10% between budget categories without prior approval from the State's Authorized Representative. Reasonable amounts may be advanced to accommodate cash flow needs or to match federal share. The advances must be approved in the Work Plan.

(b) **Travel Expenses.** Payment for travel and subsistence expenses actually and necessarily incurred by the Grantee as a result of this grant contract will not exceed \$13511351; provided that the Grantee will be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the current "Commissioner's Plan" promulgated by the Commissioner of Minnesota Management and Budget (MMB). The Grantee will not be reimbursed for travel and subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out of state.

(c) **Total Obligation.** The total obligation of the State for all compensation and reimbursements to the Grantee under this grant contract will not exceed \$22,500.

6.2 Payment

(a) **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. Invoices must be submitted, on or before **4 pm local time, July 24, 2021**. Invoices must include copies of appropriate documentation to prove the work has been completed. Invoices must be submitted in a timely manner and in the manner described in the CPL Payment Manual, which is incorporated into this grant contract by reference and can be found at:

http://files.dnr.state.mn.us/assistance/grants/habitat/lessard_sams/grantee/payment_manual.pdf

(b) **Hold Back.** No less than 5% of the amount of the grant must be held back from payment until the grant recipient has completed a grant accomplishment report by the deadline in the form prescribed by and satisfactory to the State and LSOHC.

(c) **Direct Expenditures.** Grant and match funds may only be used for the eligible direct expenditures as described in the approved Work Plan. Indirect costs and institutional overhead costs are ineligible.

(d) **Match Requirements Met.** All match requirements must have been fulfilled by the Grantee prior to final payment by the State.

(e) **Federal Funds.** No Federal funds will be used.

6.3 **Work assigned to the State.** The Grantee may provide portions of the proceeds of this contract to the State. Work done by the State must be so specified in the Work Plan. A letter shall be sent to the State's Authorized Representative and include: the specific area of the Work Plan authorizing the work; the portion of the proceeds to be used by the State; the name, title, address, phone number and e-mail

address for the State's representative assigned to accomplish the work; the expected completion date of the work; and a brief description of the nature of the work sufficient as the basis for judgment of whether or not the work was accomplished. If the work authorized by the Grantee is acquisition of land or an interest in land, the amount made available to the State shall include the Grantee's proportionate cost of professional services to complete the acquisition. The Grantee's proportion shall be determined by the ratio of its contribution to the acquisition price as a portion of the whole acquisition price. The Grantee's proceeds available under Clause 8, Payment Procedures, of this contract shall be reduced by the amount provided for State use.

6.4 Contracting and Bidding Requirements.

(a) **Municipalities.** Per [Minn. Stat. §471.345](#), grantees that are municipalities as defined in Subd. 1 must do the following if contracting funds from this grant contract for any supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property.

i. If the amount of the contract is estimated to exceed \$100,000, a formal notice and bidding process must be conducted in which sealed bids shall be solicited by public notice. Municipalities may, as a best value alternative, 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 [Minn. Stat. §16C.28](#), Subd. 1, paragraph (a), clause (2).

ii. If the amount of the contract is estimated to exceed \$25,000 but not \$100,000, the contract may be made either upon sealed bids or by direct negotiation, by obtaining two or more quotations for the purchase or sale when possible, and without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof. Municipalities may, as a best value alternative, 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 [Minn. Stat. §16C.28](#), Subd. 1, paragraph (a), clause (2) and paragraph (c).

iii. If the amount of the contract is estimated to be \$25,000 or less, 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 [Minn. Stat. §16C.28](#), Subd. 1, paragraph (a), clause (2).

(b) **Nonprofit Organizations.** All nongovernmental organizations must do the following if contracting funds from this grant contract for any supplies, materials, equipment or the rental thereof, or the constructions, alteration, repair or maintenance of real or personal property.

i. Any services and/or materials that are expected to cost \$25,000 or more must undergo a formal public notice and solicitation process.

ii. Any services and/or materials that are expected to cost between \$10,000 and \$24,999 must be scoped out in writing and offered to a minimum of three (3) bidders.

iii. Any services and/or materials that are expected to cost between \$5,000 and \$9,999 must be competitively based on a minimum of three (3) verbal quotes.

(c) **Support documentation.** Documentation of the bidding process utilized to contract services must be included in the grantee's financial records, including support documentation justifying a single/sole source bid, if applicable, for both municipalities and nongovernmental organizations.

(d) **Prevailing wage.** For any project that includes construction work of \$25,000 or more, prevailing wage rules apply per; [Minn. Stat. §§177.41](#) through [177.44](#) consequently, the bid request must state the project is subject to *prevailing wage*. These rules require that the wages of laborers and workers should be comparable to wages paid for similar work in the community as a whole. A prevailing wage form should accompany these bid submittals. Additional information on prevailing wage requirements is available on the Department of Labor and Industry (DOLI) website at

<http://www.dli.mn.gov/LS/PrevWage.asp>. Questions about the application of prevailing wage rates should be directed to DOLI at 651-284-5091. The Grant recipient is solely responsible for payment of all required prevailing wage rates.

7 Conditions of Payment

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

8 Payment Procedures

8.1 Documentation Requirements. To obtain the payment approved for work under this grant contract, the grantee must follow all payment procedures documented within the CPL Payment Manual.

8.2 Acquisition Documentation Requirements. Eligible costs incurred in the purchase of real property or an interest in real property must have documentation submitted when asking for reimbursement. See *CPL Payment Manual, Land Acquisition Procedures for Lands Not to be Conveyed to DNR* and *Land Acquisition Procedures for Lands to be Conveyed to DNR* for documentation requirements.

9 Authorized Representative

The State's Authorized Representatives:

Kathy Varble	Jessica Lee
Conservation Grants Specialist	CPL Program Coordinator
500 Lafayette Road Box #20	500 Lafayette Road Box #20
St. Paul, MN 55155	St. Paul, MN 55155
651-259-5216	651-259-5233
kathy.varble@state.mn.us	jessica.lee@state.mn.us

or successor(s) have 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(s) are:

Project Manager	Fiscal Contact
Laura Domyancich	Laura Domyancich
Planner - Project Manager	Planner - Project Manager
15320 Minnetonka Blvd	15320 Minnetonka Blvd
	15320 Minnetonka Blvd
Minnetonka, MN 55345	Minnetonka, MN 55345
1351	ldomyancich@minnehahacreek.org
952-641-4582	952-641-4582

If the Grantee’s Authorized Representative(s) changes at any time during this grant contract, the Grantee must immediately notify the State.

10 Assignment, Amendments, Waiver, and Grant Contract Complete

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

10.2 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.

10.3 **Waiver.** If the State fails to enforce any provision of this grant contract, that failure does not waive the provision or the State's right to enforce it.

10.4 **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.

11 Liability and Insurance

11.1 **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.

11.2 **General Insurance Requirements.** The Grantee shall not commence work under the contract until proof of insurance or compliance with insurance requirements has been met. The Grantee must meet the program insurance requirements as detailed at http://files.dnr.state.mn.us/assistance/grants/habitat/cpl/insurance_requirements.pdf.

11.3 **Worker's 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 In the Event of a Lawsuit

12.1 An appropriation or portion of an appropriation from a legacy fund is canceled to the extent that a court determines that the appropriation unconstitutionally substitutes for a traditional source of funding.

12.2 Any grant contract or similar contract that awards money from a legacy fund must contain the information in paragraph 11.1, Liability.

13 State Audits

Under [Minn. Stat. § 16B.98](#), Subd.8, the Grantee's books, records, documents, and accounting procedures and practices of the Grantee or other party relevant to this grant contract or transaction 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, receipt and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later.

14 Government Data Practices and Intellectual Property Rights

14.1 **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.

14.2 **Intellectual Property Rights.**

(a) **Intellectual Property Rights.** All rights, title, and interest to all intellectual property rights, including all copyrights, patents, trade secrets, trademarks, and service marks in the works and documents funded through the State of Minnesota Conservation Partners Legacy Grant Program, shall be jointly owned by

the Grantee and the State. Works shall mean all inventions, improvements, or discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes or disks, conceived, reduced to practice, created, or originated by the Grantee, its employees and subcontractors, either individually or jointly with others, in the performance of this contract. Documents shall mean the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether intangible or electronic forms, prepared by the Grantee, its employees, or subcontractors, in the performance of this contract. The ownership interests of the State and the Grantee in the works and documents shall equal the ratio of each party's contributions to the total costs described in the Budget of this contract. The party's ownership interest in the works and documents shall not be reduced by any royalties or revenues received from the sale of the products or the licensing or other activities arising from the use of the works and documents. Each party hereto shall, at the request of the other, execute all papers and perform all other acts necessary to transfer or record the appropriate ownership interests in the works and documents.

(b) **Obligations**

1. **Notification:** Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time, or actually or constructively reduced to practice by the Grantee, including its employees and subcontractors, in the performance of this contract, the Grantee shall immediately give the State's Authorized Representative written notice thereof, and shall promptly furnish the Authorized Representative with complete information and/or disclosure thereon. All decisions regarding the filing of patent, copyright, trademark or service mark applications and/or registrations shall be the joint decision of the Grantee and the State, and costs for such applications shall be divided as agreed by the parties at the time of the filing decisions. In the event the parties cannot agree on said filing decisions, the filing decision will be made by the State.

2. **Representation:** The Grantee shall 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 Grantee and the State as agreed herein, and that no Grantee employee, agent, or contractor retains any interest in and to the Works and Documents. The Grantee represents and warrants that the Works and Documents do not and shall not infringe upon any intellectual property rights of others. The Grantee shall indemnify, defend, 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 and Documents infringe upon the intellectual property rights of others. The Grantee shall 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 shall, 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 and Documents necessary and appropriate to obviate the claim. This remedy shall be in addition to, and not exclusive of, other remedies provided by law.

(c) **Uses of the Works and Documents.**

The State and Grantee shall jointly have the right to make, have made, reproduce, modify, distribute, perform, and otherwise use the works, including Documents produced under this Contract, for noncommercial research, scholarly work, government purposes, and other noncommercial purposes without payment or accounting to the other party. No commercial development, manufacture, marketing, reproduction, distribution, sales or licensing of the Works, including Documents, shall be authorized without a future written contract between the parties.

(d) **Possession of Documents.**

The Documents may remain in the possession of the Grantee. The State may inspect any of the

Documents at any reasonable time. The Grantee shall provide a copy of the Documents to the State without cost upon the request of the State.

15 Data Compatibility and Availability Requirements

- 15.1 **Data Compatibility.** Data collected by the Projects funded under this contract that have value for planning and management of natural resources, emergency preparedness, and infrastructure investments shall conform to the enterprise information architecture developed by the Office of Enterprise Technology (or its successor). Spatial data must conform to geographic information system guidelines and standards outlined in that architecture and adopted by the Minnesota Geographic Data Clearinghouse at the Land Management Information Center. A description of these data that adheres to the Office of Enterprise Technology (or its successor) geographic metadata standards shall be submitted to the Land Management Information Center to be made available online through the clearinghouse and the data must be accessible and free to the public unless made private under the Data Practices Act, Minnesota Statutes, Chapter 13.
- 15.2 **Data Availability.** To the extent practicable, summary data and results of projects funded by this grant program should be readily accessible on the Grantee's website and identified as a Lessard-Sams Outdoor Heritage Council and Conservation Partners Legacy Grant Program project.

16 Publicity, Advertising and Endorsement

- 16.1 **Publicity.** Any publicity regarding the subject matter of this grant contract must identify the State and L-SOHC as the sponsoring agency. A copy of any publicity shall be furnished to the State's Authorized Representative upon its release. 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.
- 16.2 **Endorsement.** The Grantee must not claim that the State endorses its products or services.

17 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.

18 Accessibility and Safety

- 18.1 **Accessibility.** Structural and nonstructural facilities and programs must meet all state and federal accessibility laws, regulations, and guidelines, including the American with Disabilities Act (ADA). Accessibility guidelines and standards can be found at <http://www.access-board.gov>.
- 18.2 **Safety.** All programs must adhere to federal safety regulations, which can be found on the Occupational Health and Safety Administration's website at www.osha.gov/law-regs.html.

19 Subgrantees/ Vendor Services

If any subgrants or contracts for any portion of the work covered under this grant contract are made to another entity, the contract with the subgrantee or contractor will contain all appropriate provisions of this grant contract. It is recommended that all Subgrantees/Contractors carry the same insurance as the Grantee. Subgrantee or Vendor services must follow requirements listed in the *Conservation Partners Legacy Grant Program (CPL) FY2018 Request for Proposal*, located at <http://files.dnr.state.mn.us/assistance/grants/habitat/cpl/fy17-rfp.pdf> as applicable.

20 Purchase of Recycled or Recyclable Materials

The purchase of recycled, repairable, and durable materials must be in compliance with Minn. Stat. § 16B.121. The purchase and use of paper stock and printing must be in compliance with Minn. Stat.

16B.122.

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

- 21.1. The prospective lower tier participant certifies, by submission of this contract, 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.
- 21.2. 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 contract.

22 Termination

- 22.1 **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.
- 22.2 **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.

23 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.

24 Use of Funds for Match or Reimbursement

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.

- (a) The Grantee must submit a written request for authorization no less than 10 business days prior to applying for the new funds or program to the State's Authorized Representative. This request must include the following information: CPL project name, CPL grant contract number, the amount of CPL grant funds to be used, location where CPL grant funds were or will be used, activity the grant funded, and current landowner. The project name, location where the new funds will be used, activity to be funded, funding source of the new grant or program, and a brief description of the grant or program being applied for must also be included.
- (b) If the new grant or program will add any encumbrances to the land where grant funds were or will be spent, these encumbrances must be approved in writing by the State's Authorized Representative and the current landowner.

25 Conflict of Interest

Under the Minnesota Department of Administration's Office of Grants Management [Conflict of Interest Policy for State Grant Making](#) (available at http://mn.gov/admin/images/grants_policy_08-01.pdf) and other applicable laws, Grantees must disclose actual, potential, perceived, and organizational conflicts of interest.

State Accounting Information PO Number: _____

1. STATE ENCUMBRANCE

VERIFICATION

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

By: Marydavelle

Date: 12-28-18

Purchase Order Number:

3000 144 793

Contract #: 151651

3. DEPARTMENT OF NATURAL RESOURCES

By: _____
with delegated authority

Name: James T. Leach

Title: Director, Division of Fish and Wildlife

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: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

Conservation Partners Legacy Grant Application

Printed 2018-12-12

Project Contact

Project name

Arden Park Habitat Restoration

Organization name

Minnehaha Creek Watershed District

Organization type

Government

Mailing address 1

15320 Minnetonka Blvd

Mailing address 2

City

Minnetonka

State

MN

Zip code

55345

Project manager

Laura Domyancich

Title

Planner - Project Manager

Phone

952-641-4582

Email

ldomyancich@minnehahacreek.org

Project Overview

Sites / Locations

County name:

Hennepin

Project site name:

Arden Park

Total project sites:

1

Total project sites:

1

Total project acres:

5

Land Ownership

Primary land ownership:

Local Government

Additional land ownerships:

Habitat

Primary habitat type:

Forest

Additional habitat types:

Activities

Primary activity:

Restoration

Additional activities:

ECP activities:

Project Finding Summary

Grant type	Metro
Grant request level	\$25,000 and under
Total grant amount requested	\$22,500
Total match amount pledged	\$5,000
Additional funding amount	
Total project cost	\$27,500

Project Summary

Have you ever received a CPL grant before? No

Project Location Summary

Primary county

Hennepin

Project site name

Arden Park

Primary land ownership

Local Government

Habitat and Activity Summary

Primary habitat type

Forest

Primary activity

Restoration

Total project sites

1

Total project acres

5

Summary

Minnehaha Creek Watershed District (MCWD) and the City of Edina have partnered to complete a natural resource and park restoration project within Arden Park in Edina. Minnehaha Creek currently flows through the park within a degraded channel; the creek will be remeandered within the park and stream bed and bank restoration and floodplain wetland restoration will be undertaken in 2018-2019. Contributing to the poor condition of the creek system as a whole is the degraded quality of the adjacent woodland areas. The work under this proposal aims to restore the upland woodland areas of the park adjacent to Minnehaha Creek by replanting with native trees and shrubs in an effort to improve the creek system as a whole. This work continues earlier successful creek, wetland, and upland restoration of upstream areas of Minnehaha Creek in St. Louis Park and Hopkins and further downstream

in Edina and Minneapolis. It is the goal of MCWD and the City of Edina to engage in restoration from a systems approach and consider how to ensure discrete elements of the project align to attain maximum improvements to both habitat and water quality.

Problem statement

Currently, the woodland areas surrounding Minnehaha Creek in Arden Park are in poor condition due to the dominance of woody invasive species in the understory. Pre-project vegetation monitoring determined that the woody species composition (trees and shrubs) is dominated by common buckthorn, glossy buckthorn, and Japanese honeysuckle (30%). Green ash is the next most abundant by species composition (19%). Twenty-two other native woody species make up the remaining canopy and shrub layer composition. The herbaceous ground layer is also lacking with 52% of the sample points having no ground cover and 35% of vegetative cover being non-native species. The significant presence of both common and glossy buckthorn in the canopy and shrub layer is detrimental to wildlife habitat: these species do not provide a food source and their abundance reduces structural diversity. Further, the density of these invasive plants causes shading of the ground layer, which limits herbaceous growth and promotes soil erosion on the steep slopes above Minnehaha Creek. Additionally, 33 green ash trees over 8-inches in diameter are present in the woodland areas. After significant public input, input from policymakers, and consultation among the project team, it was decided to remove most green ash from the park to proactively address emerald ash borer infestation while equipment to remove the trees was already mobilized. The replanting targeted to be completed with this grant funding will also include replacing canopy lost to ash tree removal.

Project objectives

Based on the identified issues in the woodland areas adjacent to Minnehaha Creek, vegetative restoration is needed. Initial removal of existing woody invasive species as part of the overall park restoration will allow for invasive species to be continually reduced at a maintenance level. Once woody invasive species are initially removed and ongoing management of the woodland areas is underway, this project will be focused on targeted vegetative restoration of the woodlands by replanting. With pre-project vegetation conditions known, habitat benefits including improvements to species composition, overall vegetative cover, structural diversity, and decreased erosion potential will be measured with post-project efficacy monitoring. The project area will be re-surveyed using the same vegetation monitoring technique (point intercept along a transect), and changes to vegetation will be documented. Ongoing invasive species management will also be informed by this monitoring. The budget is cost-effective by leveraging other funding to reduce woody invasive species cover through removal and follow-up treatments and then targeting grant funds to establish native and diverse shrub and canopy layers. The reestablishment of native species will be accomplished by planting a high quantity of bare root trees and shrubs over approximately 5 acres. Smaller plant material is less costly and has a lower risk of failing due to transplant shock. This site is within a 16-acre city park that will be further benefited by a significant park restoration to be constructed over the next year. The park is highly valued by the community as evidenced by the public engagement process and has long been a site for volunteer activities by the local neighborhood group.

Methods

As part of the removals for the greater park restoration, all larger woody invasive species will be removed by cutting and treating stumps with herbicide to prevent resprouting. Smaller material will be cut during initial removals, and resprouts treated through a foliar herbicide application. Most green ash trees will be removed, also, with the presumption that these trees will eventually be affected by emerald ash borer, which has been identified in the City of Edina. The work targeted for this grant application is focused on revegetation of these woodland areas that have been degraded by woody invasive species. This revegetation will be completed by spring and early summer planting of bare root trees and shrubs. Planting bare root material has the advantages of establishing quickly with less transplant stress, costing less than larger plant material, and offering the ability to complete plantings of diverse species. This work will be undertaken by a qualified vegetation management contractor who will be subcontracted by the prime contractor selected for the larger Arden Park restoration. Minimum qualifications and experience for this subcontractor are defined in project specifications documents. Revegetation will be focused initially on woody species. Based on experience with other woodland restorations, the removal of an invasive shrub layer and allowing light to reach the herbaceous layer often leads to the germination of a weedy seedbank. The initial planting of native trees and shrubs will allow ongoing vegetation management dedicated to this site to focus on management of weedy species germinating from the seedbank. Once weedy species are at a maintenance level, revegetation will shift to bolstering the herbaceous layer. Pre-project vegetation monitoring has provided an understanding of the native existing canopy and shrub layer. The existing species list, and species commonly co-occurring within this habitat type, will inform plant material selection for revegetation.

Experience / Abilities

The MCWD has undertaken woodland restoration within 20+ project sites and over 100+ acres of land. In addition to the knowledge and experience of the technical staff, this work has been supported by a group of dedicated and innovative project consultants and contractors. The proposed restoration work within Arden Park is similar to restoration that is underway at MCWD's Minnehaha Preserve project in St. Louis Park. The woodland areas of this 29-acre project were dominated by common and glossy buckthorn. In a phased and targeted approach, MCWD progressively removed the invasive species, which kept project costs in check and retained vegetative cover within the site to provide for erosion control. The MCWD and the City of St. Louis Park established an O&M plan to undertake additional phased removal of buckthorn and follow-up herbicide treatments. Once the seedbank and adjacent seed sources were diminished, significant replanting of native woodland species has been phased in. The woodland understory and shrub layer is converting back to native species dominance. This project was partially funded by a Clean Water, Land and Legacy Amendment Clean Water Fund grant of \$300,000 which, among other goals, targeted impairments in Lake Hiawatha (listed for nutrients), and Minnehaha Creek (listed for fish bio-assessment.) Restoring a buffer of native vegetation along the Creek improved habitat by providing cover and shading and reduced nutrient and sediment transport to the creek.

Project Timeline

Time Frame (month, season and/or year)

Goal

Winter 2018-19

Invasive species removal

Spring and Summer 2019

Native species planting

2019-2021

Establishment period maintenance

Estimated project completion date

2021-06-30

(must be complete by 2022-06-30)

Budget Information

Name

Laura Domyancich

Title

Planner - Project Manager

Email

ldomyancich@minnehahacreek.org

Phone

952-641-4582

Street address 1

15320 Minnetonka Blvd

Street address 2

City

Minnetonka

State

MN

Zip Code

55345

Budget Details

Contracts

Contractor Name	Contracted Work	Amount	Grant/Match	In-kind/Cash
TBD pending contract award	Planting	\$22,500	Grant	Cash

Professional Services

Professional Name	Description of Services	Amount	Grant/Match	In-kind/Cash
MCWD	Construction oversight	\$5,000	Match	In-kind

Additional Funding

Additional Funds are dollars used towards the project that are not grant funds or counted as match.

Additional funding amount

Budget Overview

Item Type	Grant	Match	Total
Personnel			
Contracts	\$22,500		\$22,500
Fee Acquisition with PILT			
Fee Acquisition without PILT			
Easement Acquisition			
Travel (in-state)			
Professional Services		\$5,000	\$5,000
DNR Land Acquisition Cost			
Equipment/Tools/Supplies			
Additional Budget Items			
Total:	\$22,500	\$5,000	\$27,500

Project Finding Summary

Grant type	Metro
Grant request level	\$25,000 and under
Total grant amount requested	\$22,500
Total match amount pledged	\$5,000
Additional funding amount	
Total project cost	\$27,500

Site Information

Land Manager

Name

Ross Bintner

Organization

City of Edina

Title

Engineering Services Manager

Review and approval form

lm-approval_signed.pdf

Phone

952-903-5713

Email

rbintner@edinamn.gov

Site Information

Site name

Arden Park

Habitat

Forest

Activity

Restoration

Land ownership

Local Government

Pls section

T: 28 R: 24 D: W S: 18

Project acres

5

Open to public hunting?

No

Open to public fishing?

Yes - all

Will you receive any revenues during the grant period from activities on this land?

No



Natural Heritage Database Review

Answer the following questions

Natural Heritage elements were found within one mile of my project site(s)

Yes

List all elements found within one mile of site(s) and discuss how you will mitigate or avoid impacts to these elements.

The Minnesota DNR has identified an occurrence of the rusty patched bumblebee (*Bombus affinis*), a federally-listed rare natural species, within 1 mile of the project site. The rusty patched bumble bee is on the Minnesota state watchlist and is considered a Species of Greatest Conservation Need. The rusty patched bumble bee typically occurs underground in abandoned rodent cavities or in clumps of grasses. The proposed project includes the reduction of landscaped and turf-grass areas and an increase in native-species vegetated areas. The Rusty Patched Bumble Bee typically occupies grasslands and tall-grass prairies, which is not identified as typical vegetation for this project site, but upland areas will be planted with native species and the plantings will include forbs and herbaceous shrubs that will support a large range of pollinators, including bee species.

Attachments

Additional Documentation

Attach additional documentation as applicable using the appropriate categories below. If you exceed the size limit while uploading, contact CPL staff to discuss your options.

Letters of Support

File	Description
Edina_letter_1-29-15.pdf	Letter of support from City of Edina Engineering staff

Partner Commitment Letters

File	Description
Partner_Commitment_Letter.docx	<i>No description given...</i>

Photos

File	Description
Arden_Park_2018-7-17_(3).JPG	Photo of Minnehaha Creek in Arden Park with woodland uplands

Restoration Plans

File	Description
Arden_Park_Vegetation_Restoration_Concept_Plan.pdf	Vegetation restoration concept plan

Engineering/Survey/Design Plans

File	Description
Planting_Plan_-_Resto_Plan_ArdenPark_90__Drawings_080118-3.pdf	90% vegetation design plans

Supplemental Documents

File	Description
Arden_Park_Fact_Sheet_08_2018_web_accessible.pdf	Fact sheet developed for park restoration project
CPL_NHIS_REVIEW_-_Arden_Park__Minnehaha_Creek_Watershed_District__Edina.docx	CPL NHIS review letter via email form Kathy Varble

Final Application Submission

This completes your CPL Grant Application. Please take the time to revisit the previous sections and make sure you have entered everything completely and correctly. Once you hit the submit button below, you will not be able to return to this application to make changes.

✓ I certify that I have read the Conservation Partners Legacy Grants Program Request for Proposal, Program Manual and other program documents, and have discussed this project with the appropriate public land manager, or private landowner and easement holder.

✓ I certify that I have read the Conservation Partners Legacy Grants Program Request for Proposal, Program Manual and other program documents, and have discussed this project with the appropriate public land manager, or private landowner and easement holder.

✓ I certify that all of the information contained in the application is correct as of the time of the submission. If anything should change, I will contact CPL Grant Staff immediately to make corrections.

✓ I certify that if funded I will give consideration to and make timely written contact to Minnesota Conservation Corps or its successor for consideration of possible use of their services to contract for restoration and enhancement services. I will provide CPL staff a copy of that written contact within 10 days after the execution of my grant, should I be awarded.

✓ I certify that I am aware at least one Land Manager Review and Approval form is required for every application and at least one Public Waters Contact form is required for all public waters work. I am aware I must submit all completed forms by uploading them into this application. I have attached the required type and number of forms as necessary for this project.

✓ I am aware that by typing my name in the box below, I am applying my signature to this online document.

Signature

Laura M Domyancich

Title

Planner - Project Manager

Organization / Agency

Minnehaha Creek Watershed District

Date

2018-09-24