SAMPLE AGREEMENT

STATE OF MINNESOTA
GRANT CONTRACT AGREEMENT
DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT
ECONOMIC DEVELOPMENT AND RESEARCH DIVISION
MINNESOTA CONVENTION CENTER RELIEF GRANT PROGRAM
CCRP-21-XXXX-H-FY21

This grant contract agreement is between the State of Minnesota, acting through the Department of Employment and Economic Development ("State"), and [GIVE THE FULL NAME OF THE GRANTEE INCLUDING ITS ADDRESS] ("Grantee").

Recitals

WHEREAS, the Convention Center Relief Grant (CCRG) Program ("Program") is a temporary grant program created to provide grants for convention centers in need of economic relief as a result of being adversely affected by the COVID-19 pandemic; and

WHEREAS, Under 2020 Minnesota Laws, 7th Special Session, S.F. No. 31, 1st Engrossment, Article 4, Section 1, the State is empowered to enter into this grant contract agreement; and

WHEREAS, Department of Employment and Economic Development is the State's duly constituted body responsible for administering the Program; and

WHEREAS, the State seeks to provide grant funds to eligible Convention Centers in accordance with the Convention Center Relief Grant Program and policies and procedures developed by the State; and

WHEREAS, the Grantee represents that it is duly qualified and agrees to perform all services described in this grant contract agreement 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 Agreement

1 Defined Terms

As used in this grant contract agreement, the following terms shall have the meanings set out respectively after each such term (the meanings to be equally applicable to both the singular and plural forms of the terms defined), unless the context specifically indicates otherwise:

“Application” means the Grantee’s application for funds from the Convention Center Relief Program and is incorporated into this grant contract agreement by reference.

“Convention Center” means a multipurpose facility with a capacity for 1,500 people or more, that is not part of a hotel, university, or retail mall, and is not primarily a music venue or theater.

“Grant Funds” means the total amount of this grant.

“Permitted Use” means using the Grant Funds for direct operations and upkeep of convention center facilities that have occurred since March 16, 2020, in the regular course of business, exclusively for Minnesota operations of the location that qualified for the grant and consistent with the restrictions described in this grant contract agreement or as may be instructed by DEED. Permitted Uses does not include using Grant Funds to purchase equipment, acquire a business, or purchase land or a building.
2 Term of Grant Contract Agreement

2.1 Effective date
[Date Commissioner Approves] or the date the State obtains all required signatures under Minn. Stat. §16B.98, Subd. 5, whichever is later. Per Minn. Stat. §16B.98 Subd. 7, no payments will be made to the Grantee until this grant contract agreement is fully executed.

2.2 Expiration date
March 15, 2021 or until all obligations have been satisfactorily fulfilled, whichever occurs first.

2.3 Survival of Terms

3 Grantee’s Duties

3.1 Duties, Deliverables and Completion Dates.
The Grantee, who is not a state employee, will comply with required grants management policies and procedures set forth through Minn. Stat. §16B.97, Subd. 4 (a) (1).

1) By entering into this grant contract agreement, Grantee certifies, represents, and warrants to the State of Minnesota that all of the following are true and correct as of March 16, 2020 and as of the Effective Date, and will remain true at all times during the Term of this grant contract agreement. The Grantee agrees that it:

   a. Is a multipurpose Convention Center with a capacity for 1,500 people or more, that is not a part of a hotel, university, or retail mall, and is not primarily a music venue or theater
   b. Has experienced a decline in overall sales between 2019 and 2020 of 30 percent or more measured by sales in the second and third quarters of each year
   c. Has been directly impacted by Governor’s Executive Order No. 20-99 and is not exempt from that order
   d. Has a physical location in the state of Minnesota
   e. Has no current tax liens on record with the Minnesota Secretary of State as of the time of Application

2) Prior to the disbursement of any Grant Funds hereunder, the Grantee will have executed and delivered to the State’s Authorized Representative the grant contract agreement.

3) It is expressly understood and agreed that the Grant Funds provided will be used exclusively for Permitted Uses. Failure to adhere to these uses as required may result in the clawback of Grant Funds.

4) It is expressly understood and agreed that the Grantee shall reopen as allowed and resume operations. Failure to adhere to reopening may result in the clawback of Grant Funds.

5) It is expressly understood and agreed that the Grantee shall not pay off any municipal debt service-related expenses with these Grant Funds. Failure to adhere may result in the clawback of Grant Funds.

6) All information that has been submitted or will be submitted by the Grantee as part of the Convention Center Relief Grant Program Application and verification process is true and correct.

7) Grantee acknowledges that the Grant Funds may be subject to federal and state taxes.
8) Grantee agrees to permit monitoring by the State to determine grant contract agreement performance and compliance with grant contract agreement provisions.

9) Minn. Stat. § 116L.66, subd.1, requires a business or private enterprise to list any vacant or new positions with the state workforce center if it receives $200,000 or more a year in grants from the State. If applicable, the business or private enterprise shall list any job vacancy in its personnel complement with MinnesotaWorks.net at www.minnesotaworks.net as soon as it occurs.

4 Time

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

5 Consideration and Payment

5.1 Consideration

The State will pay for all services performed by the Grantee under this grant contract agreement as follows:

(a) Compensation

The Grantee will be paid a lump sum of $__________________.

(b) Travel Expenses

Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Grantee as a result of this grant contract agreement will not exceed $0.00; 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 agreement will not exceed $[Total of 5.1(a) Above].

5.2 Payment

(a) Grant Funds

The State will promptly pay the Grantee the Grant Funds once the Grantee has executed and delivered to the State’s Authorized Representative the grant contract agreement and the State obtains all required signatures.

(b) Federal funds

If Payments under this grant contract agreement are made from federal funds obtained by the State, the Grantee is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Grantee’s failure to comply with federal requirements.

(c) Unexpended Funds

The Grantee must promptly return to the State any unexpended funds that have not been accounted for as defined in Permitted Uses.

5.3 Contracting and Bidding Requirements

Per Minn. Stat.§471.345, grantees that are municipalities as defined in Subd. 1 must follow the law.
(a) For projects that include 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.

(b) The grantee must not contract with vendors who are suspended or debarred in MN: http://www.mmd.admin.state.mn.us/debarredreport.asp

6 Conditions of Payment

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

7 Authorized Representative

The State’s Authorized Representative is Tom Washa, Program Administrator, 332 Minnesota Street Suite E200, St. Paul, MN 55101, 651-259-7483, tom.washa@state.mn.us, or his successor, and has the responsibility to monitor the Grantee’s performance and the authority to accept the services provided under this grant contract agreement. If the services are satisfactory, the State’s Authorized Representative will certify acceptance on each invoice submitted for payment.

The Grantee’s Authorized Representative is [Name, Title, Address, Telephone Number, Email]. If the Grantee’s Authorized Representative changes at any time during this grant contract agreement, the Grantee must immediately notify the State.

8 Assignment, Amendments, Waiver and Grant Contract Agreement Complete

8.1 Assignment

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

8.2 Amendments

Any amendments to this grant contract agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original grant contract agreement, or their successors in office.

8.3 Waiver

If the State fails to enforce any provision of this grant contract agreement, that failure does not waive the provision or the State’s right to enforce it.

8.4 Grant Contract Agreement Complete

This grant contract agreement contains all negotiations and agreements between the State and the Grantee. No other understanding regarding this grant contract agreement, whether written or oral, may be used to bind either party.

9 Liability

The Grantee must indemnify, save and hold the State, its agents and employees harmless from any claims or causes of action, including attorney’s fees incurred by the State, arising from the performance of this grant contract
agreement by the Grantee or the Grantee’s agents or employees. This clause will not be construed to bar any legal remedies the Grantee may have for the State's failure to fulfill its obligations under this grant contract agreement.

10 State and Federal 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 agreement or transaction are subject to examination by the State and/or the State Auditor or Legislative Auditor, the General Accounting Office and various federal agencies, as appropriate, for a minimum of six years from the end of this grant contract agreement, receipt and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later. Accounting methods must be in accordance with generally accepted accounting principles.

If Grantee has received funds from the U. S. Small Business Administration (SBA), including the SBA Paycheck Protection Program (PPP) or the SBA Economic Injury Disaster Loan (EIDL), or any other local, state, or federal source, including Pandemic Unemployment Assistance (PUA) the Grantee will use the Grant Funds only for eligible expenses not already covered by other funds. If these grant funds are ultimately funded by grants from the federal government, the Grantee shall comply with the requirements of the Single Audit Act Amendments of 1996 (P.L. 104-156) if the Grantee is a unit of government, a tribal government or a non-profit. If the grantee is a unit a government, tribal government or a non-profit and expends over $750,000 in federal funds during their fiscal year, an A-133 audit is required to be submitted for that year.

11 Government Data Practices and Intellectual Property Rights

11.1 Government Data Practices

The Grantee and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State under this grant contract agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Grantee under this grant contract agreement. The civil remedies of Minn. Stat. §13.08 apply to the release of the data referred to in this clause by either the Grantee or the State. If the Grantee receives a request to release the data referred to in this Clause, the Grantee must immediately notify the State. The State will give the Grantee instructions concerning the release of the data to the requesting party before the data is released. The Grantee’s response to the request shall comply with applicable law.

11.2 Intellectual Property Rights

The Grantee represents and warrants that Grantee’s intellectual property used in the performance of this grant contract agreement does not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause 9, the Grantee will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the State, at the Grantee’s expense, from any action or claim brought against the State to the extent that it is based on a claim that all or part of Grantee’s intellectual property used in the performance of this grant contract agreement infringe upon the intellectual property rights of others. The Grantee will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Grantee’s or the State’s opinion is likely to arise, the Grantee must, at the State’s discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing intellectual property as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.
12 Workers Compensation

The Grantee certifies that it is in compliance with Minn. Stat. §176.181, Subd. 2, pertaining to workers’ compensation insurance coverage. The Grantee’s employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers’ Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the State’s obligation or responsibility.

13 Publicity and Endorsement

13.1 Publicity
Any publicity regarding the subject matter of this grant contract agreement must identify the State as the sponsoring agency and must not be released without prior written approval from the State’s Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs and similar public notices prepared by or for the Grantee individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this grant contract agreement. All projects primarily funded by state grant appropriation must publicly credit the State of Minnesota, including on the grantee’s website when practicable.

13.2 Endorsement
The Grantee must not claim that the State endorses its products or services.

14 Governing Law, Jurisdiction and Venue

Minnesota law, without regard to its choice-of-law provisions, governs this grant contract agreement. Venue for all legal proceedings out of this grant contract agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

15 Termination

15.1 Termination by the State
The State may immediately terminate this grant contract agreement with or without cause, upon 30 days’ written notice to the Grantee. Upon termination, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

15.2 Termination for Cause
The State may immediately terminate this grant contract agreement if the State finds that there has been a failure to comply with the provisions of this grant contract agreement, that reasonable progress has not been made or that the purposes for which the funds were granted have not been or will not be fulfilled. The State may take action to protect the interests of the State of Minnesota, including the refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed.

15.3 Termination for Insufficient Funding
The State may immediately terminate this grant contract agreement if:

(a) It does not obtain funding from the Minnesota Legislature
(b) Or, if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the Grantee. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds.
The State must provide the Grantee notice of the lack of funding within a reasonable time of the State’s receiving that notice.

16 Data Disclosure

Under Minn. Stat. § 270C.65, Subd. 3, and other applicable law, the Grantee consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Grantee to file state tax returns and pay delinquent state tax liabilities, if any.

17 Conflicts of Interest

The State will take steps to prevent individual and organizational conflicts of interest in reference to Grantees per Minn. Stat. § 16B.98 and Department of Administration, Office of Grants Management, Policy Number 08-01 Conflict of Interest Policy for State Grant-Making. When a conflict of interest concerning State grant-making is suspected, disclosed, or discovered, transparency shall be the guiding principle in addressing it.

In cases where a potential or actual individual or organizational conflict of interest is suspected, disclosed, or discovered by the Grantee throughout the life of the grant contract agreement, they must immediately notify the State for appropriate action steps to be taken, as defined above.

The Grantee must complete a Conflict of Interest Disclosure agreement and attach it to their proposal.

1 STATE ENCUMBRANCE VERIFICATION

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

Signed: ____________________________________
Date: _____________________________________
SWIFT Contract/PO No(s). ____________________

2 GRANTEE

The Grantee certifies that the appropriate person(s) have executed the grant contract agreement on behalf of the Grantee as required by applicable articles, bylaws, resolutions, or ordinances.

By: _______________________________________
Title: _____________________________________
Date: _____________________________________

By: _______________________________________
Title: _____________________________________
Date: _____________________________________

3 STATE AGENCY

By: _______________________________________
Title: _____________________________________
Date: _____________________________________

Distribution:
Agency
Grantee
State’s Authorized Representative