

General Fund
Grant Agreement
Pre-Design or Design Grant
for the
«1»

Project

TABLE OF CONTENTS

RECITALS	1
Article I - Definitions.....	1
Section 1.01 Defined.....	1
Article II - GRANT.....	2
Section 2.01 Grant of Monies	2
Section 2.02 Use of Grant Proceeds.....	2
Section 2.03 Completion of Predesign Stage.....	2
Section 2.04 Grant Recipient Representations and Warranties.....	2
Section 2.05 Termination/Modification of Grant.....	4
Section 2.06 Excess Funds.....	4
Article III - ACQUISITION, CONSTRUCTION AND USE OF ANY REAL PROPERTY AND FACILITY	4
Section 3.01 Applicability.....	4
Section 3.02 Additional Defined Terms.....	4
Section 3.03 Operation of the Real Property and Facility.....	5
Section 3.04 Execution and Delivery of Declaration.....	5
Section 3.05 Grant Recipient Representations and Warranties.....	5
Section 3.06 Use Contracts	8
Section 3.07 Sale	9
Section 3.08 Proceeds of a Sale	9
Section 3.09 Effect of Sale.....	10
Section 3.10 Insurance	10
Section 3.11 Condemnation	10
Section 3.12 Use, Maintenance, Repair and Alterations.....	11
Section 3.13 Inspection of Facility.....	12
Section 3.14 Applicability to Real Property and Facility.....	12
Article IV - EVENTS OF DEFAULT AND REMEDIES.....	12
Section 4.01 Event(s) of Default	12
Section 4.02 Remedies	12
Section 4.03 Notification of Event of Default.....	13
Section 4.04 Effect of Event of Default	13
Article V - DISBURSEMENT OF GRANT PROCEEDS	13
Section 5.01 The Advances.....	13
Section 5.02 Draw Requisitions.....	13
Section 5.03 Additional Funds from Borrower.....	14
Section 5.04 Conditions Precedent to Any Advance	14
Article VI - MISCELLANEOUS.....	15
Section 6.01 Records Keeping and Reporting	15
Section 6.02 Data Practices.....	15

Section 6.03	Non-Discrimination.....	16
Section 6.04	Worker’s Compensation.....	16
Section 6.05	Antitrust Claims	16
Section 6.06	Prevailing Wages.....	16
Section 6.07	Liability	16
Section 6.08	Indemnification by the Grant Recipient	17
Section 6.09	Relationship of the Parties.....	17
Section 6.10	Notices.....	18
Section 6.11	Binding Effect and Assignment or Modification	19
Section 6.12	Waiver	19
Section 6.13	Entire Agreement	19
Section 6.14	Choice of Law and Venue	19
Section 6.15	Severability.....	19
Section 6.16	Time of Essence	19
Section 6.17	Counterparts	19
Section 6.18	Matching Funds.....	19
Section 6.19	Source and Use of Funds.....	20
Section 6.20	Third-Party Beneficiary.....	21
Section 6.21	E-Verification.....	21
Section 6.22	Jobs Reporting Requirements.....	21
Section 6.23	Term of Grant Agreement	21
Section 6.24	Additional Requirements.....	21
Attachment I - DISBURSEMENT REQUIREMENTS AND SCHEDULE		23
Attachment II - SOURCE AND USE OF FUNDS FOR THE PROJECT		24
Attachment III - JOBS REPORTING.....		25

General Fund

**Grant Agreement – Predesign or Design Grant
for the
_____ «1»
Project**

THIS AGREEMENT shall be effective as of _____ «2» _____, _____ «2» _____, and is between _____ «3» _____, a _____ «4» _____ (the “Public Entity”), and the _____ «5» _____ (the “State Entity”).

RECITALS

A. Under the provisions contained in _____ «6» _____, the State of Minnesota has allocated \$ _____ «7» _____, which is to be given to the Grant Recipient as a grant to assist it in the _____ «8» _____; and

B. The monies allocated to fund the grant to the Grant Recipient are appropriated money from the State of Minnesota’s general fund; and

C. The Grant Recipient and the State Entity desire to set forth herein the provisions relating to the granting of such monies and the disbursement thereof to the Grant Recipient.

IN CONSIDERATION of the grant described and other provisions in this Agreement, the parties to this Agreement agree as follows.

Article I - Definitions

Section 1.01 Defined Terms. As used in this 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:

“Advance(s)” – means an advance made or to be made by the State Entity to the Grant Recipient and disbursed in accordance with the provisions contained in Article V hereof.

“Agreement” - means this General Funds Grant Agreement Predesign or Design Grant for the _____ «1» _____ Project.

“Commissioner of Management and Budget” - means the State of Minnesota acting through its Commissioner of Management and Budget, and any designated representatives thereof.

“Event of Default” - means those events set forth in Section 4.01.

“Facility”, if applicable, - means _____ «9», which may be acquired and improved, renovated, rehabilitated, or newly constructed by the Grant Recipient at some future date.

“Grant” - means a grant of monies from the State Entity to the Grant Recipient in an amount of \$ _____ «7».

“Grant Recipient” – means _____ «3», a _____ «4».

“Predesign Stage” - means the performance of predesign or design functions relating to the Grant Recipient’s acquisition of an interest in and, if applicable, the improvement of the Real Property and, in addition and if applicable, the acquisition, improvement, renovation, rehabilitation, or new construction of the Facility.

“Real Property” - means real property that is the subject of this Agreement and, if applicable, upon which the Facility will be situated.

“State Entity” - means the _____ «5».

Article II - GRANT

Section 2.01 Grant of Monies. The State Entity shall issue the Grant to the Grant Recipient and disburse the proceeds in accordance with the provisions of this Agreement. The Grant is not intended to be a loan.

Section 2.02 Use of Grant Proceeds. The Grant Recipient shall use the proceeds of the Grant to perform, complete and fully pay for the Predesign Stage.

Section 2.03 Completion of Predesign Stage. The Grant Recipient shall diligently pursue and complete, or cause to be completed, the Predesign Stage and pay all of the costs related thereto.

Section 2.04 Grant Recipient Representations and Warranties. With respect to the Predesign Stage the Grant Recipient covenants with and represents and warrants to the State Entity as follows:

A. It has legal authority to enter into, execute and deliver this Agreement, and it has taken all actions necessary to its execution and delivery of this Agreement.

B. This Agreement is a legal, valid and binding obligation of the Grant Recipient enforceable against the Grant Recipient in accordance with its terms.

C. It will comply with all of the terms, conditions, provisions, covenants, requirements, and warranties contained in this Agreement.

D. It has made no material false statement or misstatement of fact in connection with its receipt of the Grant, and all of the information it previously submitted to the State Entity

or which it will submit to the State Entity in the future relating to the Grant or the disbursement of any of the Grant is and will be true and correct.

E. It is not in violation of any provisions of its charter or of the laws of the State of Minnesota, and there are no actions, suits, or proceedings pending, or to its knowledge threatened, before any judicial body or governmental authority, against or affecting it relating to the Predesign Stage, and it is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental authority which would impair its ability to enter into this Agreement or to perform any of the acts required of it in this Agreement.

F. Neither the execution and delivery of this Agreement, nor compliance with any of the terms, conditions, requirements, or provisions contained herein is prevented by, is a breach of, or will result in a breach of, any term, condition, or provision of any agreement or document to which it is now a party or by which it is bound.

G. It will use the Grant solely to reimburse itself for expenditures it has already made, or will make, to perform and complete the Predesign Stage or to pay for the completion of the Predesign Stage.

H. The Predesign Stage will be performed and completed in full compliance with all applicable laws, statutes, rules, ordinances, and regulations issued by any federal, state, or local political subdivisions having jurisdiction over the Predesign Stage.

I. It has complied with the matching funds requirement, if any, contained in Section 6.18.

J. It will complete and fully pay for the Predesign Stage.

K. It will supply or cause to be supplied whatever funds that are needed above and beyond the amount of the Grant to complete and fully pay for the Predesign Stage.

L. It will furnish to the State Entity as soon as possible and in any event within 7 calendar days after the Grant Recipient has obtained knowledge of the occurrence of each Event of Default, or each event which with the giving of notice or lapse of time or both would constitute an Event of Default, a statement setting forth details of each Event of Default, or event which with the giving of notice or upon the lapse of time or both would constitute an Event of Default, and the action which the Grant Recipient proposes to take with respect thereto.

M. It will promptly notify the State Entity if and when it acquires an interest in or improves the Real Property, or acquires an interest in or improves, renovates, rehabilitates, or newly constructs the Facility.

N. It shall furnish such satisfactory evidence regarding the representations and warranties described herein as may be required and requested in writing by either the State Entity or the Commissioner of Management and Budget.

Section 2.05 Termination/Modification of Grant. If the Predesign Stage is not started on or before _____ «10» _____, «10», or such later date to which the Grant Recipient and the State Entity may agree in writing, then the State Entity's obligation to fund the Grant shall terminate, and, in such event, (i) if none of the Grant has been disbursed by such date then the State Entity's obligation to fund any portion of the Grant shall terminate and this Agreement shall also terminate and no longer be of any force or effect, and (ii) if some but not all of the Grant has been disbursed by such date then the State Entity shall have no further obligation to provide any additional funding for the Grant and this Agreement shall remain in full force and effect but shall be modified and amended to reflect the amount of the Grant that was actually disbursed as of such date.

In addition, if all of the Grant has not been disbursed on or before the date that is 5 years from the effective date of this Agreement, then the State Entity's obligation to continue to fund the Grant shall terminate, and in such event (y) if none of the Grant has been disbursed by such date then the State Entity's obligation to fund any portion of the Grant shall terminate and this Agreement shall also terminate and no longer be of any force or effect, and (z) if some but not all of the Grant has been disbursed by such date then the State Entity shall have no further obligation to provide any additional funding under the Grant and this Agreement shall remain in full force and effect but shall be modified and amended to reflect the amount of the Grant that was actually disbursed as of such date.

In the event that the legislation that authorized the Grant is amended to increase or reduce the amount of the Grant or in any other way, then this Agreement shall be deemed to have been automatically modified in accordance with such amendment and the amount of the Grant shall also be automatically modified in accordance with such amendment.

Section 2.06 Excess Funds. If the full amount of the Grant and any matching funds referred to in Section 6.18 are not needed to complete the Predesign Stage, then, unless language in the legislation that authorized the Grant indicates otherwise, the Grant shall be reduced by the amount not needed.

Article III - ACQUISITION, CONSTRUCTION AND USE OF ANY REAL PROPERTY AND FACILITY

Section 3.01 Applicability. The provisions contained in this Article III are in addition to and not in replacement of the other provisions contained in this Agreement, and shall only apply in the event that and at the time that the Grant Recipient acquires an interest in and, if applicable, improves the Real Property and, in addition and if applicable, acquires, improves, renovates, rehabilitates, or newly constructs the Facility. Such application shall occur even if the Grant Recipient does not receive any additional monies from the State Entity for the subsequent acquisition of an interest in and, if applicable, the improvement of the Real Property and, in addition and if applicable, the acquisition, improvement, renovation, rehabilitation, or new construction of the Facility. If the Grant Recipient never acquires an interest the Real Property and, if applicable, the Facility, then this Article III shall have no effect.

Section 3.02 Additional Defined Terms. The following defined terms apply to the provisions contained in this Article III, are in addition to the defined terms contained in Section

1.01, and shall have the meanings set out respectively after each (such meanings to be equally applicable to both the singular and plural forms of the terms defined), unless the contents hereof specifically indicate otherwise:

“Declaration” - means a declaration, in form and substance acceptable to the State Entity, indicating that the Grant Recipient’s interest in the Real Property and, if applicable, the Facility, will be subject to certain restrictions imposed by this Agreement.

“Fair Market Value” – means either (i) the price that would be paid by a willing and qualified buyer to a willing and qualified seller as determined by an appraisal which assumes that all mortgage liens or encumbrances on the property being sold, which negatively affect the value of such property, will be released, or (ii) the price bid by a purchaser under a public bid procedure after reasonable public notice, with the proviso that all mortgage liens or encumbrances on the property being sold, which negatively affect the value of such property, will be released at the time of acquisition by the purchaser.

“Use Contract” - means a lease, management contract or other similar contract between Grant Recipient and any other entity, and which involves or relates to the Real Property and, if applicable, the Facility.

“Usee” - means the entity that the Grant Recipient contracts with under a Use Contract.

Section 3.03 Operation of the Real Property and Facility. The Grant Recipient shall operate the Real Property and, if applicable, the Facility, or cause it to be operated, as _____
«11», or for such other use as the Minnesota legislature may from time to time designate, and may enter into Use Contracts with Usees to so operate the Real Property and, if applicable, the Facility; provided that such Use Contracts fully complies with all of the provisions contained in Section 3.06. The Grant Recipient shall also annually determine that the Real Property and, if applicable, the Facility are being so used and shall supply a statement, sworn to before a notary public, to such effect to the State Entity.

Section 3.04 Execution and Delivery of Declaration. The Grant Recipient shall promptly execute, record in the appropriate office, and deliver a Declaration to the State Entity with all of the recording information displayed thereon.

Section 3.05 Grant Recipient Representations and Warranties. With respect to the Grant Recipient’s acquisition of an interest in and, if applicable, the improvement of the Real Property and, in addition and if applicable, the acquisition, improvement, renovation, rehabilitation, or new construction of the Facility, the Grant Recipient covenants with and represents and warrants to the State Entity as follows:

A. As of the date of this Agreement it has legal authority to enter into, execute, record, and deliver the Declaration, and it will not take any action that will revoke or impair such authority or impair its ability to enter into, record, or deliver the Declaration.

B. It will take all actions necessary to its execution, recording, and delivery of the Declaration.

C. After the Declaration has been executed it will be a legal, valid, and binding obligation of the Grant Recipient enforceable against the Grant Recipient in accordance with its terms.

D. With respect to the Real Property it will hold either (i) fee simple title, (ii) a lease or easement, in form and substance acceptable to the State Entity and that cannot be prematurely cancelled or terminated without the prior written consent of the State Entity, for a term of 37.5 years if there is no Facility, or (iii) a lease or easement, in form and substance acceptable to the State Entity and that cannot be prematurely cancelled or terminated without the prior written consent of the State Entity, for a term of years equal to or greater than 125% of the expected useful life of the structures and improvements which make up the Facility if there is a Facility, and, in addition, will possess all easements necessary for the operation, maintenance and management of the Real Property in the manner specified in Section 3.03.

E. With respect to the Facility, if applicable, it will hold either (i) fee simple title, or (ii) a lease or easement, in form and substance acceptable to the State Entity and that cannot be prematurely cancelled or terminated without the prior written consent of the State Entity, for a term of years equal to or greater than 125% of the expected useful life of the structures and improvements which make up the Facility, and, in addition, will possess all easements necessary for the operation, maintenance and management of the Facility in the manner specified in Section 3.03.

F. Its acquisition of an interest in and, if applicable, improvement of the Real Property and, if applicable, acquisition, improvement, renovation, rehabilitation, or new construction of the Facility will be performed in full and complete compliance with all applicable laws, statutes, rules, ordinances, and regulations issued by any federal, state, or local political subdivisions having jurisdiction over the Real Property or, if applicable, the Facility.

G. It will obtain all applicable licenses, permits, and bonds required for its acquisition of an interest in and, if applicable, improvement of the Real Property and, in addition and if applicable, its acquisition, improvement, renovation, rehabilitation, or new construction of the Facility.

H. Its use of the Real Property and, if applicable, the Facility will be performed in full compliance with all applicable laws, statutes, rules, ordinances, and regulations issued by any federal, state, or local political subdivisions having jurisdiction over the use of the Real Property and, if applicable, the Facility.

I. It will obtain all licenses, permits, and bonds required for its use of the Real Property and, if applicable, the Facility.

J. In its acquisition of an interest in and, if applicable, the improvement of the Real Property and, in addition and if applicable, the acquisition, improvement, renovation, rehabilitation, or new construction of the Facility it will comply with all of the terms contained in this Agreement and the Declaration.

K. It will fully enforce the terms and conditions contained in any Use Contract.

L. It will not allow any lien or encumbrance that is prior and superior to the Declaration to be created or imposed upon the Real Property, whether such lien or encumbrance is voluntary or involuntary and including but not limited to a mechanic's lien or a mortgage lien, without the prior written consent of the State Entity.

M. As of the date of this Agreement it is not in violation of any of the provisions of its charter or of the laws of the State of Minnesota that would (i) prohibit it from entering into, recording, and delivering the Declaration, (ii) affect its ability to acquire an interest in and, if applicable, improve the Real Property or operate the Real Property for the purpose delineated in Section 3.03 or (iii) if applicable, affect its ability to acquire, improve, renovate, rehabilitate, or newly construct the Facility or operate the Facility for the purpose delineated in Section 3.03. In addition, it will not take any action that would be in violation of such charter or laws that would prohibit or prevent it from performing such acts.

N. As of the date of this Agreement there are not any actions, suits, or proceedings pending, or to its knowledge threatened, before or by any judicial body or governmental authority, against, or affecting it that would (i) prohibit it from entering into, recording, and delivering the Declaration, (ii) affect its ability to acquire an interest in and, if applicable, improve the Real Property or operate the Real Property for the purpose delineated in Section 3.03, or (iii) if applicable, affect its ability to acquire, improve, renovate, rehabilitate, or newly construct the Facility or operate the Facility for the purpose delineated in Section 3.03.

O. As of the date of this Agreement it is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental authority which would prohibit it from (i) executing, recording, and delivering the Declaration, (ii) acquiring an interest in and, if applicable, improving the Real Property or operating the Real Property for the purpose delineated in Section 3.03, or (iii) if applicable, acquiring, improving, renovating, rehabilitating, or newly constructing the Facility or operating the Facility for the purpose delineated in Section 3.03. In addition, it will not take any action that would cause a default under any such order, writ, injunction, decree, or demand of any court or any governmental authority to occur that would prevent the performance of such acts.

P. As of the date of this Agreement, neither (i) its execution, recording, or delivery of the Declaration, (ii) its ability to acquire an interest in and, if applicable, improve the Real Property or operate the Real Property for the purpose delineated in Section 3.03, or (iii) if applicable, its ability to acquire, improve, renovate, rehabilitate, or newly construct the Facility and operate the Facility for the purpose delineated in Section 3.03, will be prevented by, be a breach of, or will result in a breach of, any term, condition, or provision of any agreement or document to which it is a party or by which it is bound. In addition, it will not enter into any agreement or document that would prevent the performance of such acts.

Q. As of the date of this Agreement its acquisition of an interest in and, if applicable, improvement of the Real Property or operation of the Real Property for the purpose delineated in Section 3.03 and, in addition and if applicable, its acquisition, improvement, renovation, rehabilitation, or new construction of the Facility or operation of the Facility for the purpose delineated in Section 3.03 will not violate any applicable zoning or use statute,

ordinance, building code, rule or regulation, or any covenant or agreement of record. In addition, it will not take any action that would cause such a violation.

Section 3.06 Use Contracts. Each and every Use Contract that the Grant Recipient enters into must comply with the following requirements:

A. The purpose for which the Use Contract will be entered into must be a governmental purpose.

B. It must contain a provision setting forth the statutory authority under which the Grant Recipient is entering into the Use Contract, and must comply with the substantive and procedural provisions of such statute.

C. It must contain a provision stating that the Use Contract is being entered into in order to carry out the purpose for which the Grant was allocated, and must recite the purpose.

D. It must be for a term, including any renewals that are solely at the option of the Usee, that is, if applicable, substantially less than the useful life of the structures and improvements that make up the Facility, if any, but may allow for renewals beyond the original term upon a determination by the Grant Recipient that the use continues to carry out the specific purpose for which the Grant was allocated. A term that is equal to or shorter than 50% of the useful life of the structures and improvements that make up the Facility, if any, will meet the requirement that it be for a time period that is substantially shorter than the useful life of such structures and improvements. If there is no Facility, then the term must not exceed 50% of the useful life of the Real Property.

E. It must allow for termination by the Grant Recipient in the event of a default thereunder by the Usee, or in the event that the specific purpose for which the Grant was allocated is terminated or changed.

F. It must require the Usee to pay all costs of operation and maintenance of the Real Property and, if applicable, the Facility, unless the Grant Recipient is authorized by law to pay such costs and agrees to pay such costs.

H. To the extent that the Grant Recipient acquires an interest in or improves the Real Property or, if applicable, Facility with tax-exempt general obligation bonds issued by the State of Minnesota ("G.O. Bonds"), if any funds are to be paid to the Grant Recipient under the Use Contract, then it must contain a provision requiring that each and every party thereto shall, upon direction by the Commissioner of Management and Budget, take such actions and furnish such documents to the Commissioner of Management and Budget as the commissioner determines to be necessary to ensure that the interest to be paid on the G.O. Bonds is exempt from federal income taxation.

I. If the amount of the Grant exceeds \$200,000.00, then it must contain a provision requiring the Usee to list any vacant or new positions it may have with state workforce centers as required by Minn. Stat. § 116L.66, Subd. 1, as it may be amended, modified or replaced from time to time, for the term of the Use Contract.

Section 3.07 Sale. The Grant Recipient shall not sell its interest in the Real Property or, if applicable, the Facility unless all of the following provisions have been complied with fully.

- A. The Grant Recipient determines, by official action, that it is no longer usable or needed as _____ «11».
- B. The sale is made as authorized by law.
- C. The sale is for Fair Market Value.
- D. Written notice of such proposed sale has been supplied to both the State Entity and the Commissioner of Management and Budget at least 30 days prior thereto.

The acquisition of the Grant Recipient's interest in the Real Property and, if applicable, the Facility at a foreclosure sale, acceptance of a deed-in-lieu of foreclosure of the Grant Recipient's interest in the Real Property and, if applicable, the Facility, or enforcement of a security interest in personal property used in the operation thereof, by a lender that has provided monies for the acquisition of the Grant Recipient's interest in or betterment of the Real Property and, if applicable, the Facility shall not be considered a sale for the purposes of this Agreement if after such acquisition the lender operates the Real Property and, if applicable, the Facility in a manner which is not inconsistent with the program specified in Section 3.03 and the lender uses its best efforts to sell such acquired interest to a third party for Fair Market Value. The lender's ultimate sale or disposition of the acquired interest in the Real Property and, if applicable, the Facility shall be deemed to be a sale for the purposes of this Agreement, and the proceeds thereof shall be disbursed in accordance with the provisions contained in Section 3.08.

Section 3.08 Proceeds of a Sale. Upon the sale of the Grant Recipient's interest in the Real Property and, if applicable, the Facility the net proceeds thereof shall be disbursed in the following manner and order:

- A. The first distribution shall be to the Commissioner of Management and Budget in an amount equal to the amount of the Grant actually disbursed, and if the amount of such net proceeds shall be less than the amount of the Grant actually disbursed then all of such net proceeds shall be distributed to the Commissioner of Management and Budget.
- B. The remaining portion, after the distribution specified in Section 3.08.A, shall be distributed to pay in full any outstanding public or private debt incurred to acquire the Grant Recipient's interest in or for the betterment of the Real Property and, if applicable, the Facility in the order of priority of such debt.
- C. The remaining portion, after the distributions specified in Sections 3.08.A & B, shall be divided and distributed in proportion to the shares contributed to the acquisition of the Grant Recipient's interest in or for the betterment of the Real Property and, if applicable, the Facilities by public and private entities, including the State Entity but not including any private entity that has been paid in full, that supplied funds in either real monies or like kind contributions for such acquisition and betterment, and the State Entity's distribution shall be

made to the Commissioner of Management and Budget. Such public and private entities may agree amongst themselves as to any redistribution of such distributed funds.

The Grant Recipient shall not be required to pay or reimburse the State Entity for any funds above and beyond the full net proceeds of such sale, even if such net proceeds are less than the amount of the Grant actually disbursed.

Section 3.09 Effect of Sale. Upon the occurrence of a sale that is made in conformance with the provisions contained in Sections 3.07 and 3.08, this Agreement shall terminate and the Real Property and, if applicable, the Facility shall be released from the Declaration.

Section 3.10 Insurance. The Grant Recipient shall maintain or cause to be maintained fire and extended coverage insurance on the Facility, if such exists, in an amount equal to the full insurable value thereof, and shall name the State Entity as loss payee thereunder. If damages which are covered by such required insurance occurs to the Facility, if such exists, then the Grant Recipient shall, at its sole option and discretion, either; (i) use or cause the insurance proceeds to be used to fully or partially repair such damage and to provide or cause to be provided whatever additional funds that may be needed to fully or partially repair such damage, or (ii) sell its interest in the Real Property and the damaged Facility, if such exists, in accordance with the provisions contained in Section 3.07. If the Grant Recipient elects to only partially repair such damage, then the portion of the insurance proceeds which are not used for such repair shall be applied in accordance with the provisions contained in Section 3.08 as if the Grant Recipient's interest in the Real Property and Facility, if such exists, had been sold, and such amounts shall be credited against the amounts due and owing under Section 3.08 upon the ultimate sale of the Grant Recipient's interest in the Real Property and Facility, if such exists. If the Grant Recipient elects to sell its interest in the Real Property and the damaged Facility, if such exists, then such sale must occur within a reasonable time period from the date the damage occurred and the cumulative sum of the insurance proceeds plus the proceeds of such sale must be applied in accordance with the provisions contained in Section 3.08, with the insurance proceeds being so applied within a reasonable time period from the date they are received by the Grant Recipient.

As loss payee under the insurance required the State Entity will assign or pay over to the Grant Recipient all insurance proceeds it receives so that the Grant Recipient can comply with the requirements that this Section 3.13 imposes upon the Grant Recipient as to the use of such insurance proceeds.

If the Grant Recipient elects to maintain general comprehensive liability insurance regarding the Real Property and Facility, if such exists, then the Grant Recipient shall have the State Entity named as an additional named insured therein.

At the written request of either the State Entity or the Commissioner of Management and Budget, the Grant Recipient shall promptly furnish to the requesting entity all written notices and all paid premium receipts received by the Grant Recipient regarding such required insurance, or certificates of insurance evidencing the existence of the required insurance.

Section 3.11 Condemnation. If all or any portion of the Real Property and, if applicable, the Facility is condemned to an extent that the Grant Recipient can no longer comply with the

provisions contained in Section 3.03, then the Grant Recipient shall, at its sole option and discretion, either: (i) use or cause the condemnation proceeds to be used to acquire an interest in additional real property needed for the Grant Recipient to continue to comply with the provisions contained in Section 3.03 and, if applicable, to fully or partially restore the Facility and to provide or cause to be provided whatever additional funds that may be needed for such purposes, or (ii) sell the remaining portion of its interest in the Real Property and, if applicable, the Facility in accordance with the provisions contained in Section 3.07. Any condemnation proceeds which are not used to acquire an interest in additional real property or to restore, if applicable, the Facility shall be applied in accordance with the provisions contained in Section 3.08 as if the Grant Recipient's interest in the Real Property and, if applicable, the Facility had been sold, and such amounts shall be credited against the amounts due and owing under Section 3.08 upon the ultimate sale of the Grant Recipient's interest in the Real Property and, if applicable, the Facility. If the Grant Recipient elects to sell its interest in the portion of the Real Property and, if applicable, the Facility that remains after the condemnation, then such sale must occur within a reasonable time period from the date the condemnation occurred and the cumulative sum of the condemnation proceeds plus the proceeds of such sale must be applied in accordance with the provisions contained in Section 3.08, with the condemnation proceeds being so applied within a reasonable time period from the date they are received by the Grant Recipient.

As recipient of any of condemnation awards or proceeds referred to herein, the State Entity agrees to and will disclaim, assign or pay over to the Grant Recipient all of such condemnation awards or proceeds it receives so that the Grant Recipient can comply with the requirements which this Section 3.11 imposes upon the Grant Recipient as to the use of such condemnation awards or proceeds.

Section 3.12 Use, Maintenance, Repair and Alterations. The Grant Recipient shall not, without the written consent of the State Entity, permit or suffer the use of any of the Real Property and, if applicable, the Facility, for any purpose other than the use for which the same is intended as of the effective date of this Agreement. In addition, the Grant Recipient; (i) shall keep the Real Property and, if applicable, the Facility, in good condition and repair, subject to reasonable and ordinary wear and tear, (ii) shall not, written consent of the State Entity, remove, demolish or substantially alter (except such alterations as may be required by laws, ordinances or regulations) any of the Facility, if applicable, (iii) shall not do any act or thing which would unduly impair or depreciate the value of the Real Property and, if applicable, the Facility, (iv) shall not abandon the Real Property and, if applicable, the Facility, (v) shall complete promptly and in good and workmanlike manner any building or other improvement which may be constructed on the Real Property and promptly restore in like manner any portion of the Facility, if applicable, which may be damaged or destroyed thereon and pay when due all claims for labor performed and materials furnished therefor, (vi) shall comply with all laws, ordinances, regulations, requirements, covenants, conditions and restrictions now or hereafter affecting the Real Property and, if applicable, the Facility, or any part thereof, or requiring any alterations or improvements thereto, (vii) shall not commit or permit any waste or deterioration of the Real Property and, if applicable, the Facility, (viii) shall keep and maintain abutting grounds, sidewalks, roads, parking and landscape areas in good and neat order and repair, (ix) shall comply with the provisions of any lease if the Grant Recipient's interest in the Real Property and, if applicable, the Facility, is a leasehold interest, (x) shall comply with the provisions of any condominium documents if the Real Property and, if applicable, the Facility, is part of a condominium regime, (xi) shall not remove

any fixtures or personal property from the Real Property and, if applicable, the Facility, that was paid for with the proceeds of the Grant unless the same are immediately replaced with like property of at least equal value and utility, and (xii) shall not commit, suffer or permit any act to be done in or upon the Real Property and, if applicable, the Facility, in violation of any law, ordinance or regulation.

Section 3.13 Inspection of Facility. Upon reasonable request by the State Entity the Grant Recipient shall allow, and will require any entity to whom it leases, subleases, or enters into a Use Contract for any portion of the Real Property and, if applicable, the Facility to allow, the State Entity to inspect the Real Property and, if applicable, the Facility.

Section 3.14 Applicability to Real Property and Facility. This Agreement applies to the Grant Recipient's present or future interest in the Real Property and if a Facility currently exists or will exist in the future the Facility. The term "if applicable" appearing before the term "Facility" is meant to indicate that the this Agreement will apply to a Facility if one exists, and if no Facility exists then this Agreement will only apply to the Grant Recipient's interest in the Real Property.

Article IV - EVENTS OF DEFAULT AND REMEDIES

Section 4.01 Event(s) of Default. The following events shall, unless waived in writing by the State Entity, constitute an Event of Default under this Agreement upon the State Entity giving the Grant Recipient 30 days written notice of such event, and Grant Recipient's failure to cure such event during such 30 day time period for those Events of Default that can be cured within 30 days or within whatever time period is needed to cure those Events of Default that cannot be cured within 30 days as long as the Grant Recipient is using its best efforts to cure and is making reasonable progress in curing such Events of Default, however, in no event shall the time period to cure any Event of Default exceed 6 months. Notwithstanding the foregoing, any of the following events that cannot be cured shall, unless waived in writing by the State Entity, constitute an Event of Default under this Agreement immediately upon either the State Entity or the Commissioner of Management and Budget giving the Grant Recipient written notice of such event

A. If any representation, covenant, or warranty made by the Grant Recipient herein, in any other document furnished pursuant to this Agreement, or in order to induce the State Entity to disburse any of the Grant, shall prove to have been untrue or incorrect in any material respect or materially misleading as of the time such representation, covenant, or warranty was made.

B. If the Grant Recipient fails to fully comply with any provision, term, condition, covenant, or warranty contained in this Agreement.

Section 4.02 Remedies. Upon the occurrence of an Event of Default and at any time thereafter until such Event of Default is cured to the satisfaction of the State Entity, the State Entity or the Commissioner of Management and Budget may enforce any or all of the following remedies.

A. The State Entity may refrain from disbursing the Grant; provided, however, the State Entity may make such a disbursement after the occurrence of an Event of Default without thereby waiving its rights and remedies hereunder.

B. The Commissioner of Management and Budget, as a third party beneficiary of this Agreement, may demand that the portion of the Grant already disbursed to the Grant Recipient be returned to it, and upon such demand the Grant Recipient shall return such portion to the Commissioner of Management and Budget.

C. Either the State Entity or the Commissioner of Management and Budget, as a third party beneficiary of this Agreement, may enforce any additional remedies they may have in law or equity.

The rights and remedies herein specified are cumulative and not exclusive of any rights or remedies that the State Entity or the Commissioner of Management and Budget would otherwise possess.

If the Grant Recipient does not repay any portion of the amount specified in Section 4.02.B within thirty (30) days of demand by either the State Entity or the Commissioner of Management and Budget, then such amount may, unless precluded by law, be taken from or off-set against any aids or other monies that the Grant Recipient is entitled to receive from the State of Minnesota.

Section 4.03 Notification of Event of Default. The Grant Recipient shall furnish to both the State Entity and the Commissioner of Management and Budget, as soon as possible and in any event within 7 days after it has obtained knowledge of the occurrence of each Event of Default or each event which with the giving of notice or lapse of time or both would constitute an Event of Default, a statement setting forth details of each Event of Default or event which with the giving of notice or upon the lapse of time or both would constitute an Event of Default and the action which the Grant Recipient proposes to take with respect thereto.

Section 4.04 Effect of Event of Default. If an Event of Default occurs and the Grant Recipient is required to and does return the amount specified in Section 4.02.B to the Commissioner of Management and Budget, then the following shall occur.

A. This Agreement shall survive and remain in full force and effect.

B. The amount returned by the Grant Recipient shall be credited against any amount that shall be due to the Commissioner of Management and Budget under Section 4.02.B, and against any amount that becomes due and payable because of any other Event of Default.

Article V - DISBURSEMENT OF GRANT PROCEEDS

Section 5.01 The Advances. The State Entity agrees, on the terms and subject to the conditions set forth herein, to make Advances from the Grant to the Grant Recipient from time to time in an aggregate total amount equal to the amount of the Grant. Provided, however, in accordance with the provisions contained in Section 2.05, the State Entity's obligation to make Advances shall terminate as of the day and date which occurs 5 years from the effective date of this Agreement even if all of the Grant has not been disbursed by such date.

Section 5.02 Draw Requisitions. Whenever the Grant Recipient desires a disbursement of a portion of the Grant, which shall be no more often than once each calendar month, the Grant Recipient shall submit to the State Entity a Draw Requisition duly executed on behalf of the Grant

Recipient or its designee. Each Draw Requisition shall be submitted on or between the 1st day and the 15th day of the month in which an Advance is requested, and shall be submitted at least 7 calendar days before the date the Advance is desired. Each Draw Requisition shall be limited to amounts equal to the portion of the Predesign Stage that has been completed since the submittal of the last prior Draw Requisition.

At the time of submission of each Draw Requisition the Grant Recipient shall submit to the State Entity such supporting evidence as may be requested by the State Entity to substantiate all payments that are to be made out of the relevant Draw Requisition.

If on the date an Advance is desired the Grant Recipient has complied with all requirements of this Agreement and the State Entity approves the relevant Draw Requisition and receives a current construction report from the Inspecting Engineer recommending payment, then the State Entity shall disburse the amount of the requested Advance to the Grant Recipient.

Section 5.03 Additional Funds from Borrower. If the State Entity shall at any time in good faith determine that the sum of the undisbursed amount of the Grant plus the amount of all other funds committed to the completion of the Predesign Stage is less than the amount required to pay all costs and expenses of any kind which reasonably may be anticipated in connection with the completion of the Predesign Stage, then the State Entity may send written notice thereof to the Grant Recipient specifying the amount which must be supplied in order to provide sufficient funds to complete the Predesign Stage. The Grant Recipient agrees that it will, within 10 calendar days of receipt of any such notice, supply or have some other entity supply the amount of funds specified in the State Entity's notice.

Section 5.04 Conditions Precedent to Any Advance. The obligation of the State Entity to make any Advance hereunder (including the initial Advance) shall be subject to the following conditions precedent:

A. The State Entity shall have received a Draw Requisition for such Advance specifying the amount of funds being requested, which such amount when added to all prior requests for an Advance shall not exceed the maximum amount of the Grant set forth in Section 1.01.

B. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, that (i) the Grant Recipient has legal authority to and has taken all actions necessary to enter into this Agreement, and (ii) this Agreement is binding on and enforceable against the Grant Recipient.

C. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, that that the Grant Recipient has sufficient funds to fully and completely pay for the Predesign Stage and all other expenses that may occur in conjunction therewith.

D. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, that the Grant Recipient is in compliance with the matching funds requirements, if any, contained in Section 6.18.

E. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, that the Grant Recipient is in compliance with those provisions contained in **Attachment I** attached.

F. No determination shall have been made by the State Entity that the amount of funds committed to the completion of the Predesign Stage is less than the amount required to pay all costs and expenses of any kind which reasonably may be anticipated in connection with the completion of the Predesign Stage, or if such a determination has been made and notice thereof sent to the Grant Recipient then the Grant Recipient has supplied or has caused some other entity to supply the necessary funds in accordance with Section 5.03, or to provide evidence acceptable to the State Entity that sufficient funds are available.

G. No Event of Default under this Agreement or event which would constitute an Event of Default but for the requirement that notice be given or that a period of grace or time elapse shall have occurred and be continuing.

H. The Grant Recipient has supplied to the State Entity all other items that the State Entity may reasonably require.

Article VI - MISCELLANEOUS

Section 6.01 Records Keeping and Reporting. The Grant Recipient shall maintain or cause to be maintained books, records, documents and other evidence pertaining to the costs or expenses associated with the completion of the Predesign Stage and, if accomplished, the acquisition of an interest in and, if applicable, the improvement of the Real Property and, in addition and if applicable, the acquisition, improvement, renovation, rehabilitation, or new construction of the Facility, and the contemplated use of the Real Property and, if applicable, the Facility, and compliance with the requirements contained in this Agreement, and upon request shall allow or cause the entity which is maintaining such items to allow the State Entity, auditors for the State Entity, the Legislative Auditor for the State of Minnesota, or the State Auditor for the State of Minnesota, to inspect, audit, copy, or abstract, all of its books, records, papers, or other documents relevant to the Grant. The Grant Recipient shall use or cause the entity that is maintaining such books and records to use generally accepted accounting principles in the maintenance of such books and records, and shall retain or cause to be retained all of such books, records, documents, and other evidence for a period of 6 years from the date that the Predesign Stage has been completed and, if applicable, for a period of 5 years from the date of the Grant Recipient's acquisition of an interest in and, if applicable, the improvement of the Real Property and, in addition and if applicable, the acquisition, improvement, renovation, rehabilitation, or new construction of the Facility.

Section 6.02 Data Practices. The Grant Recipient agrees with respect to any data that it possesses regarding the Grant, the Predesign Stage, and, if accomplished, the acquisition of an interest in and, if applicable, the improvement of the Real Property and, in addition and if applicable, the acquisition, improvement, renovation, rehabilitation, or new construction of the Facility, or contemplated use of the Real Property and, if applicable, the Facility, to comply with all of the provisions and restrictions contained in the Minnesota Government Data Practices Act

contained in Chapter 13 of the Minnesota Statutes, as such may be amended, modified or replaced from time to time.

Section 6.03 Non-Discrimination. The Grant Recipient agrees to not engage in discriminatory employment practices in the completion of the Predesign Stage and, if accomplished, the acquisition of an interest in and, if applicable, the improvement of the Real Property and, in addition and if applicable, the acquisition, improvement, renovation, rehabilitation, or new construction of the Facility or contemplated use of the Facility, and it shall, with respect to such activities, fully comply with all of the provisions contained in Minn. Stat. Chapters 363A and 181, as such may subsequently be amended, modified or replaced from time to time.

Section 6.04 Worker's Compensation. The Grant Recipient agrees to comply with all of the provisions relating to worker's compensation contained in Minn. Stat. §§ 176.181 Subd. 2 & 176.182, as such may subsequently be amended, modified or replaced from time to time, with respect to the completion of the Predesign Stage and, if accomplished, the acquisition of an interest in and, if applicable, the improvement of the Real Property and, in addition and if applicable, the acquisition, improvement, renovation, rehabilitation, or new construction of the Facility.

Section 6.05 Antitrust Claims. The Grant Recipient hereby assigns to the State Entity and the Commissioner of Management and Budget all claims it may have for overcharges as to goods or services provided in its completion of the Predesign Stage and, if accomplished, the acquisition of an interest in and, if applicable, the improvement of the Real Property and, in addition and if applicable, the acquisition, improvement, renovation, rehabilitation, or new construction of the Facility or contemplated use of the Real Property and, if applicable, the Facility, which arise under the antitrust laws of the State of Minnesota or of the United States of America.

Section 6.06 Prevailing Wages. The Grant Recipient agrees to comply with all of the applicable provisions contained in Chapter 177 of the Minnesota Statutes, and specifically those provisions contained in Minn. Stat. §§ 177.41 through 177.435, as such may subsequently be amended, modified or replaced from time to time, with respect to the completion of the Predesign Stage and, if accomplished, the acquisition of an interest in and, if applicable, the improvement of the Real Property and, in addition and if applicable, the acquisition, improvement, renovation, rehabilitation, or new construction of the Facility or contemplated use of the Real Property and, if applicable, the Facility.

Section 6.07 Liability. The Grant Recipient and the State Entity agree that they will, subject to any indemnifications provided herein, be responsible for their own acts and the results thereof to the extent authorized by law, and they shall not be responsible for the acts of the other party and the results thereof. The liability of both the State Entity and the Commissioner of Management and Budget is governed by the provisions contained in Minn. Stat. § 3.736, as such may subsequently be amended, modified or replaced from time to time. If the Grant Recipient is a "municipality" as such term is used in Chapter 466 of the Minnesota Statutes, then the liability of the Grant Recipient, including but not limited to the indemnification provided under Section 6.08, is governed by the provisions contained in such Chapter 466.

Section 6.08 Indemnification by the Grant Recipient. The Grant Recipient shall bear all loss, expense (including attorneys' fees), and damage in connection with the completion of the Predesign Stage and, if accomplished, the acquisition of an interest in and, if applicable, the improvement of the Real Property and, in addition and if applicable, the acquisition, improvement, renovation, rehabilitation, or new construction of the Facility or contemplated use of the Real Property and, if applicable, the Facility, and agrees to indemnify and hold harmless the State Entity, the Commissioner of Management and Budget, and the State of Minnesota, their agents and employees, from all claims, demands and judgments made or recovered against the State Entity, the Commissioner of Management and Budget, and the State of Minnesota, their agents and employees, because of bodily injuries, including death at any time resulting therefrom, or because of damages to property of the State Entity, the State of Minnesota, or others (including loss of use) from any cause whatsoever, arising out of, incidental to, or in connection with the completion of the Predesign Stage and, if accomplished, the acquisition of an interest in and, if applicable, the improvement of the Real Property and, in addition and if applicable, the acquisition, improvement, renovation, rehabilitation, or new construction of the Facility or contemplated use of the Real Property and, if applicable, the Facility, whether or not due to any act of omission or commission, including negligence of the Grant Recipient or any Contractor or his or their employees, servants or agents, and whether or not due to any act of omission or commission (excluding, however, negligence or breach of statutory duty) of the State Entity, the Commissioner of Management and Budget, and the State of Minnesota, their employees, servants or agents.

The Grant Recipient further agrees to indemnify, save, and hold the State Entity, the Commissioner of Management and Budget, and the State of Minnesota, their agents and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation by the Grant Recipient, its officers, employees, or agents, or by any Usee, its officers, employees, or agents, of any provision of the Minnesota Government Data Practices Act, including legal fees and disbursements paid or incurred to enforce the provisions contained in Section 6.02.

The Grant Recipient's liability hereunder shall not be limited to the extent of insurance carried by or provided by the Grant Recipient, or subject to any exclusions from coverage in any insurance policy.

Section 6.09 Relationship of the Parties. Nothing contained in this Agreement is intended or should be construed in any manner as creating or establishing the relationship of co-partners or a joint venture between the Grant Recipient, the State Entity, or the Commissioner of Management and Budget, nor shall the Grant Recipient be considered or deemed to be an agent, representative, or employee of either the State Entity, the Commissioner of Management and Budget, or the State of Minnesota, in the performance of this Agreement, the completion of the Predesign Stage, or, if and when accomplished, the acquisition of an interest in and, if applicable, the improvement of the Real Property and, in addition and if applicable, the acquisition, improvement, renovation, rehabilitation, or new construction of the Facility or contemplated use of the Real Property and, if applicable, the Facility.

The Grant Recipient represents that it has already or will secure or cause to be secured all personnel required for the performance of this Agreement, the completion of the Predesign Stage, and, if and when accomplished, the acquisition of an interest in and, if applicable, the improvement

Section 6.11 Binding Effect and Assignment or Modification. This Agreement shall be binding upon and inure to the benefit of the Grant Recipient and the State Entity, and their respective successors and assigns. Provided, however, that neither the Grant Recipient nor the State Entity may assign any of its rights or obligations under this Agreement without the prior written consent of the other party. No change or modification of the terms or provisions of this Agreement shall be binding on either the Grant Recipient or the State Entity unless such change or modification is in writing and signed by an authorized official of the party against which such change or modification is to be imposed.

Section 6.12 Waiver. Neither the failure by the Grant Recipient, the State Entity, or the Commissioner of Management and Budget, as a third party beneficiary of this Agreement, in any one or more instances to insist upon the complete and total observance or performance of any term or provision hereof, nor the failure of the Grant Recipient, the State Entity, or the Commissioner of Management and Budget, as a third party beneficiary of this Agreement, to exercise any right, privilege, or remedy conferred hereunder or afforded by law shall be construed as waiving any breach of such term, provision, or the right to exercise such right, privilege, or remedy thereafter. In addition, no delay on the part of either the Grant Recipient, the State Entity, or the Commissioner of Management and Budget, as a third party beneficiary of this Agreement, in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude other or further exercise thereof or the exercise of any other right or remedy.

Section 6.13 Entire Agreement. This Agreement and the documents, if any, referred to and incorporated herein by reference embody the entire agreement between the Grant Recipient and the State Entity, and there are no other agreements, either oral or written, between the Grant Recipient and the State Entity on the subject matter hereof.

Section 6.14 Choice of Law and Venue. All matters relating to the validity, construction, performance, or enforcement of this Agreement shall be determined in accordance with the laws of the State of Minnesota. All legal actions initiated with respect to or arising from any provision contained in this Agreement shall be initiated, filed and venued in the State of Minnesota District Court located in the City of St. Paul, County of Ramsey, State of Minnesota.

Section 6.15 Severability. If any provision of this Agreement is finally judged by any court to be invalid, then the remaining provisions shall remain in full force and effect, and they shall be interpreted, performed, and enforced as if the invalid provision did not appear herein.

Section 6.16 Time of Essence. Time is of the essence with respect to all of the matters contained in this Agreement.

Section 6.17 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall together constitute one and the same instrument.

Section 6.18 Matching Funds. The Grant Recipient must obtain and supply the following matching funds, if any, for the completion of the Predesign Stage:

(If there are no matching funds requirements then insert the word “NONE”.)

Any matching funds which are intended to meet the above requirements must either be in the form of (i) cash monies, (ii) legally binding commitments for money, or (iii) equivalent funds or contributions, including equity, which have been or will be used to complete or pay for the Predesign Stage. The Grant Recipient shall supply to the Commissioner of Management and Budget whatever documentation the Commissioner of Management and Budget may request to substantiate the availability and source of any matching funds, and the source and terms relating to all matching funds must be consented to, in writing, by the Commissioner of Management and Budget.

Section 6.19 Source and Use of Funds. The Grant Recipient represents to the State Entity and the Commissioner of Management and Budget that **Attachment II** is intended to be and is a source and use of funds statement showing the total cost of the Predesign Stage and all of the funds that are available for the completion of the Predesign Stage, and that the information contained in such **Attachment II** correctly and accurately delineates the following information.

A. The total cost of the Predesign Stage detailing all of the major elements that make up such total cost and how much of such total cost is attributed to each such major element.

B. The source of all funds needed to complete the Predesign Stage broken down among the following categories:

- (i) State funds including the Grant, identifying the source and amount of such funds.
- (ii) Matching funds, identifying the source and amount of such funds.
- (iii) Other funds supplied by the Grant Recipient, identifying the source and amount of such funds.
- (iv) Loans, identifying each such loan, the entity providing the loan, the amount of each such loan, the terms and conditions of each such loan, and all collateral pledged for repayment of each such loan.
- (v) Other funds, identifying the source and amount of such funds.

C. Such other financial information that is needed to correctly reflect the total funds available for the completion of the Predesign Stage the source of such funds and the expected use of such funds.

If any of the funds included under the source of funds have conditions precedent to the release of such funds, then the Grant Recipient must provide to the State Entity and the Commissioner of Management and Budget a detailed description of such conditions and what is being done to satisfy such conditions.

The Grant Recipient shall also supply whatever other information and documentation that the State Entity or the Commissioner of Management and Budget may request to support or explain any of the information contained in **Attachment II**.

Section 6.20 Third-Party Beneficiary. The Grant Recipient and the State Entity agree that the completion of the Predesign Stage will benefit the State of Minnesota, and the provisions and requirements contained herein are for the benefit of both the State Entity and the State of Minnesota. Therefore, the State of Minnesota, by and through its Commissioner of Management and Budget, is and shall be a third-party beneficiary of this Agreement.

Section 6.21 E-Verification. The Grant Recipient agrees and acknowledges that it is aware of Minn. Stat. § 16C.075 regarding e-verification of employment of all newly hired employees to confirm that such employees are legally entitled to work in the United States, and that it will, if and when applicable, fully comply with such statute and impose a similar requirement in any Use Contract to which it is a party.

Section 6.22 Jobs Reporting Requirements. Pursuant to Minn. Stat. § 16A.633, Subd. 4, the Grant Recipient shall collect, maintain and, upon completion of the Project, provide the information indicated in **Attachment III** of this Agreement, to the Commissioner of Management and Budget. The information must include, but is not limited to, the following: the number and types of jobs created by the Project, whether the jobs are new or retained, where the jobs are located and the pay ranges of the jobs.

Section 6.23 Term of Grant Agreement. This Agreement shall, unless earlier terminated in accordance with any of the provisions contained herein, remain in full force and effect for the time period starting on the effective date of this Agreement and ending on the date that corresponds to the date established by adding a time period equal to 125% of Useful Life of the Real Property and, if applicable, Facility to the date on which the Grant Recipient first acquires an ownership interest in the Real Property and, if applicable, Facility and puts such property into use for the operation of the Governmental Program. If there are no uncured Events of Default as of such date this Agreement shall terminate and no longer be of any force or effect, and the Commissioner of Management and Budget shall execute whatever documents are needed to release the Real Property and, if applicable, Facility from the effect of this Agreement and the Declaration.

Section 6.24 Additional Requirements. The Grant Recipient and the State Entity agree to comply with the following additional requirements.

(If there are no additional requirements then insert the word “NONE”.)

American-Made Steel. Minnesota Laws 2014, Chapter 295, Section 21, requires public entities receiving an appropriation of public money for a project in that act to ensure those facilities are built with American-made steel, to the extent practicable. The Public Entity shall comply with this requirement, and shall furnish any documentation pursuant thereto reasonably requested by the State Entity.

«15»

(THE REMAINING PORTION OF THIS PAGE WAS INTENTIONALLY LEFT BLANK)

IN TESTIMONY HEREOF, the Grant Recipient and the State Entity have executed this General Fund Grant Agreement – Pre-design or Design Grant for the «1» Project on the day and date indicated immediately below their respective signatures.

GRANT RECIPIENT:

_____ «3»
a _____ «4»

By: _____

Its: _____ «16»
 _____ «17»

And: _____

Its: _____ «18»
 _____ «19»

Dated: _____

STATE ENTITY:

_____ «5»

By: _____

Its: _____ «20»
 _____ «21»

Dated: _____

**Attachment I -
DISBURSEMENT REQUIREMENTS AND SCHEDULE**

«22»

**Attachment II -
SOURCE AND USE OF FUNDS FOR THE PROJECT**

Source of Funds		Use of Funds	
<u>Identify Source of Funds</u>	<u>Amount</u>	<u>Identify Items</u>	<u>Amount</u>
State Funds		Items Paid for with Grant Funds	
Grant	\$ _____		\$ _____
			\$ _____
Other State Funds			\$ _____
_____	\$ _____		\$ _____
_____	\$ _____	Subtotal	\$ _____
_____	\$ _____		
Subtotal	\$ _____	Items Paid for with Non-Grant Funds	
Matching Funds			\$ _____
_____	\$ _____		\$ _____
_____	\$ _____		\$ _____
Subtotal	\$ _____	Subtotal	\$ _____
Other Public Entity Funds			
_____	\$ _____		
_____	\$ _____		
Subtotal			
Loans			
_____	\$ _____		
_____	\$ _____		
Subtotal	\$ _____		
Other Funds			
_____	\$ _____		
_____	\$ _____		
Subtotal	\$ _____		-
Prepaid Project Expenses			
_____	\$ _____		
_____	\$ _____		
Subtotal	\$ _____		
TOTAL FUNDS	\$ _____	TOTAL PREDESIGN/ DESIGN COSTS	\$ _____

Attachment III - JOBS REPORTING

(a) Pursuant to Minn. Stat. Sec. 16A.633, subd. 4, State Entity is required to report the number of jobs created or retained by the Project. To enable State Entity to comply with Minn. Stat. Sec. 16A.633, subd. 4, the Grant Recipient is required to report the number of jobs created or retained by the Project to State Entity as set forth below.

(b) The Grant Recipient shall require all of its contractors to report the information below to the Grant Recipient. The Grant Recipient shall then report to State Entity. Information can be recorded by State Entity in an Excel document that can be downloaded into the report by Minnesota Management and Budget. Each report must contain the following:

- (1) The name of the Project.
- (2) The State Entity's contract number, if applicable.
- (3) Reporting period. The appropriate biennium is to be selected.
- (4) The Agency Number. This will complete the next column with Agency Name.
- (5) Legal Citation for the Authorization.
- (6) Department ID responsible for the Project.
- (7) The Appropriation for the Project.
- (8) The Appropriation Amount.
- (9) Project Start Date.
- (10) Project Completion Date.
- (11) The County where the Project is located or, if it is located in more than one county, where it is primarily located.
- (12) Funding Source for Project. The selection will be Trunk Highway Bonds, General Obligation Bonds or General Fund.
- (13) Job Type. Jobs should be classified as either (i) engineering/professional, (ii) construction, or (iii) other. Manager and supervisor jobs shall be classified as category (i), (ii) or (iii) based on the nature of the work those individuals spent the majority of their time overseeing.
- (14) Hourly Wages. Jobs should be classified according to the hourly pay ranges below. Overhead or indirect costs or the value of pensions or other benefits should not be included in wages.
 - (i) less than \$10.00,
 - (ii) \$10.01 to \$15.00,
 - (iii) \$15.01 to \$20.00,
 - (iv) \$20.01 to \$25.00,
 - (v) \$25.01 to \$30.00,
 - (vi) \$30.01 to \$35.00,
 - (vii) \$35.01 to \$40.00, or
 - (viii) more than \$40.00.
- (15) Jobs.

- a. Jobs should be classified as either (i) jobs created or (ii) jobs retained; they will not be counted as both. A “job created” is a new position created and filled, or an existing unfilled position that is filled, because of the Project. A “job retained” means a job at a specific wage level that existed prior to beginning the Project that would have been lost but for the Project. Only jobs in Minnesota should be counted.
- b. Jobs should be expressed in “full-time equivalents” (FTE). In calculating an FTE, the number of hours worked during the Reporting Period should be divided by 2,080 (the number of hours representing a full work schedule in a Reporting Period). Jobs should be reported regardless of when the Project or an individual’s employment began or ended. Jobs are to be calculated based on hours worked in the current Reporting Period only, so that reporting is not cumulative.
- c. Jobs should not be separated into full-time, part-time, temporary, seasonal, etc. Instead, all hours should be totaled and converted into FTEs as indicated above.

(c) Each contractor will report its workforce and the workforce of its subcontractors active during the Reporting Period. This includes employees actively engaged in the Project who work on the jobsite, in the Project office, in the home office or telecommute from home or other alternative office location. This includes, but is not limited to, any engineering personnel, inspectors, sampling and testing technicians, and lab technicians performing work directly in support of the Project. This does not include material suppliers such as steel, culverts, guardrail and tool suppliers. Only hours that relate to time spent on the Project should be reported.

(d) The Grant Recipient must incorporate these reporting requirements into its contracts with its contractors (in part so that contractors can add the requirements to their contracts with subcontractors and impose deadlines on reporting by subcontractors).

(e) To distinguish the jobs reported by contractors that were funded by the Grant, the Grant Recipient must multiply the job numbers reported by each contractor in each category above by the percentage of total Project costs funded by the Grant (e.g., if the Grant was 40% of total Project costs, the Grantee should multiply the jobs numbers given in each category by 40% to arrive at the number of jobs funded by the Grant) and it is those numbers that should be reported to State Entity.