

**SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF _____ AND THE DAKOTA COUNTY
COMMUNITY DEVELOPMENT AGENCY FOR COLLABORATION OF THE SMALL BUSINESS RELIEF
GRANT PROGRAM
FUNDED WITH CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT FUNDS**

July 14, 2020 – February 15, 2021

The parties to this Agreement are the City of _____ (City) and the Dakota County Community Development Agency (CDA), collective referred to as “the Parties”. This Agreement is made pursuant to the authority conferred upon the parties by Minn. Stat. § 471.59.

WHEREAS, the Coronavirus Aid, Relief, and Economic Security (CARES) Act as signed into law by President Trump on March 27, 2020;

WHEREAS, the CARES Act established the Coronavirus Relief Fund (Fund) and appropriated \$150 billion to the Fund; and

WHEREAS, the Fund is to be used to make payments for specific uses to State and certain local governments; and

WHEREAS, City received an allocation of \$_____ of the Fund (the City Allocation) from the State of Minnesota that must meet the eligibility criteria established by the U.S. Department of Treasury and the Minnesota Coronavirus Relief Fund Certification (**Exhibit A**); and

WHEREAS, Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act, requires States, Tribal governments, or units of local governments use the funds received to cover only those costs that (1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) (2) were not accounted for in the budget most recently approved as of March 27, 2020, for the State or government and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020;

WHEREAS, the COVID-19 coronavirus pandemic has created emergency and exigent circumstances for individuals and businesses necessitating immediate response and implementation of programs to provide relief aid to impacted communities and business; and

WHEREAS, the creation of a small business relief grant program is an eligible Fund expenditure to reimburse the costs of business interruption caused by required closures; and

WHEREAS, creation of a small business relief grant program (Program) was approved by the _____ City Council on _____ (Resolution No. _____) authorizing the CDA to administer the program on behalf of the City, to be funded with the City Allocation; and

WHEREAS, City authorized up to \$_____ to fund grant awards and up to \$_____ for administrative expenses related to the Program; and

WHEREAS, the City Allocation must be expended by November 15, 2020 or returned to Dakota County.

Now, therefore, in consideration of the mutual covenants and promises contained in this Agreement, the City and the CDA agree with all of the recitals set forth above, and agree to the following:

I. Scope of Services to be provided by the CDA

- A. The CDA agrees to act as the subrecipient for the City in the administration of the Program, which utilizes a portion of the City Allocation funds from the State of Minnesota. As the subrecipient, the CDA agrees to oversee the program and processes.
- B. The CDA agrees to comply with federal procurement provisions to procure and enter into a contractual agreement with a qualified contractor to implement the Program.
- C. The CDA agrees to develop marketing materials and advertise the Program in collaboration with Dakota County, cities, chambers of commerce, and business associations, to reach as many eligible businesses as possible to apply for the Program.
- D. The CDA agrees to oversee the work of the Contractor on every stage of the Program from applications development, to selection, review, award of grants, and to audit of grantees.
- E. Review all fully executed grant agreements and funding requests to each grantee (small business) before submitting to City for payment.
- F. The CDA shall keep detailed records of the Program and provide regular updates to the City.
- G. Pursuant to Minn. Stat. §16C.05, subd. 5, the CDA agrees that the City, the State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, et., which are pertinent to the accounting practices and procedures of the CDA and involve transactions relating to this Agreement. CDA agrees to maintain these records for a period of six years from the date of termination of this Agreement and will require the Contractor to comply with this requirement.

II. Time of Performance

The services to be provided pursuant to the Agreement shall commence on or after July 14, 2020 and continue until February 15, 2021, or until all obligations have been satisfactorily fulfilled, whichever occurs first. Presently, the City Allocation must be expended by November 15, 2020 or returned to the County. City and the CDA acknowledge the COVID-19 coronavirus pandemic has created emergency and exigent circumstances necessitating expedited response and implementation of programs, including the Program, to provide relief aid to impacted communities and business.

III. Duties of the City

In consideration of the performance of the duties and obligations of the CDA, the City hereby authorizes the CDA ability to reimburse the actual administrative and project-related costs of carrying out its duties and obligations hereunder out of the City Allocation up to an amount allowable by _____ City Council Resolution No. _____. Such costs include the following:

- A. Contractor costs incurred in order to carry out its duties and obligations pursuant to this Agreement;
- B. Reasonable and necessary administrative expenses.

IV. Financial Recordkeeping

The CDA shall:

- A. Obtain, review, and pay regular invoices for services incurred by Contractor.
- B. Maintain records and documentation on reasonable and necessary administrative expenses.
- C. Submit a report on November 1, 2020 identifying the amounts of any outstanding Program reimbursement requests eligible for reimbursement from the City Allocation that must be paid by November 15, 2020.
- D. Submit regular Program reimbursement requests to the City in a timely manner. No reimbursement requests will be submitted to the City later than November 1, 2020.
- E. Review all fully executed grant agreements and funding requests to each grantee (small business) before submitting to City for payment.

V. General Provisions

- A. Compliance with Laws. CDA shall abide by all federal, state or local laws, statutes, ordinances, rules and regulations now in effect or hereunder adopted pertaining to activities governed by the Agreement.
- B. Minnesota Law to Govern. This Agreement shall be governed by and construed in accordance with the substantive and procedural laws of the State of Minnesota, without giving effect to the principles of conflict of laws. All proceedings related to this Agreement shall be venued in the State of Minnesota.
- C. Independent Contractor. The CDA is an independent contractor and nothing herein shall be construed to create the relationship of employer and employee between the City and the CDA or any employee of the CDA. The CDA shall at all times be free to exercise initiative, judgment and discretion as to how best to provide the services pursuant to this Agreement. The CDA acknowledges and agrees that the CDA is not entitled to receive any of the benefits received by City employees and is not eligible for workers or reemployment compensation benefits.

D. Indemnification.

Each party to this Agreement shall be liable for the acts of its officers, employees or agents and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other party, its officers, employees or agents. The provisions of the Municipal Tort Claims Act, Minn. Stat. ch. 466 and other applicable laws govern liability of the City and the CDA. Each insurance party warrants that they are able to comply with the aforementioned indemnity requirement through an insurance or self-insurance program and that each has minimum coverage with the liability limits contained in Minn. Stat. ch. 466. In the event of any claims or actions filed against either party, nothing in this Agreement shall be construed to allow a claimant to obtain separate judgments or separate liability caps from the individual Parties. The provisions of this section shall survive the expiration or termination of this Agreement.

E. Waiver. Waiver of any default shall not be deemed a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be construed to be a modification of the terms of this Agreement unless stated to be such.

F. Modifications. Any alterations, variations, modifications or waivers of the provisions of this Agreement, and incorporated attachments, shall only be valid when they have been reduced to writing and signed by authorized representatives of the City and the CDA.

G. Severability. The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid, or unenforceable, such rendering shall not affect the validity or enforceability of the remainder of this Agreement unless the part or parts which are void, invalid, or otherwise unenforceable shall substantially impair the value of the entire Agreement with respect to either party.

H. Merger. This Agreement, together with the Joint Powers Agreement between the parties of equal date herewith, is the final expression of the agreement of the City and the CDA and the complete and exclusive statement of the terms agreed upon and shall not supersede all prior negotiations, understandings or agreements. There are no representations, warranties, stipulations, either oral or written, not herein contained.

I. Assignment. Except as identified in the Joint Powers Agreement between the parties of equal date herewith, the CDA shall not enter into any subcontract for the performance of the services contemplated under this Agreement or assign any interest in the Agreement without prior written consent of the City and subject to such conditions as the City deems necessary. The CDA shall be responsible for the performance of its subcontractors or assignees unless otherwise agreed in writing.

J. Subrecipient Agreements. If the CDA operates as the administrative agent for any other municipality for a small business assistance program similar to the Program, the CDA will enter into a separate subrecipient agreements with those entities.

K. Records and Reports. The CDA shall maintain all records as prescribed by applicable federal regulations. The CDA further agrees to maintain records relating to all services provided by it pursuant to the Agreement and shall retain all such documentation for a period of six (6) years from

the date services were last provided pursuant to this Agreement or longer if any audit in progress requires a longer retention period. Such records are subject to the examination, duplications, transcription and audit by the City, and Legislative or State Auditor, pursuant to Minn. Stat. §16C.05, subd. 5, and duly authorized officials and officers of the United States government.

- L. Audits. Compliance with Single Audit Act. The CDA understands that these funds are subject to the requirements under the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.
- M. Termination. If the CDA materially fails to comply with any term of this Agreement, the City may take one or more of the actions identified in 24 CFR §85.43, as appropriate in the circumstances. The City may terminate this Agreement in whole or in part for convenience, as provided in 24 CFR §85.44.
- N. Rights and Remedies. All remedies available to either the City or the CDA under the terms of this Agreement or by law are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies. Waiver of any default shall not be deemed a waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be construed to modify the terms of this Agreement unless stated to be such in writing and signed by authorized representatives of the City and the CDA.
- O. Notices. Notification required to be provided pursuant to this Agreement shall be provided to the following named persons and addresses unless otherwise stated in the Agreement or in an amendment to this Agreement:

To City:

To CDA:

Tony Schertler
Executive Director
Dakota County CDA
1228Town Centre Drive
Eagan, MN 55123

In addition, notification to the CDA regarding termination shall be provided to the Office of the Dakota County Attorney, 1560 Highway 55, Hastings, MN 55033.

- P. Liaison. To assist the parties in the day-to-day performance of this Agreement, a liaison shall be designated by the City and the CDA. The parties shall keep each other continually informed. At the time of the execution of this Agreement, the following persons are the designated liaisons:

City's Liaison:
Phone Number:

CDA Liaison: Lisa Alfson
Phone Number: 651-675-4400

- Q. Certifications. The CDA certifies to the best of its knowledge and belief that:

1. No federally appropriated funds have been paid or will be paid by or behalf of the CDA to any person or persons for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreements.

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

3. The CDA shall require that the language of this certification be included in the award documents for all the subawards at all tiers (including subcontractors, subgrants, and contracts) under grants, loans, and cooperative agreements and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by 31 U.S.C. §1332. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

R. Survivability. The right and obligations found in I.G.; V.D. Indemnification, V.K Records and Reports; and V.L. Audits shall survive expiration or termination of this agreement.

APPROVED AS TO FORM:

**DAKOTA COUNTY COMMUNITY
DEVELOPMENT AGENCY**

Assistant County Attorney/Date
KS-2020-

By: _____
Tony Schertler, Executive Director
Date of Signature: _____

Res. No. _____

CITY OF XXXXXX

By: _____
_____, Mayor

By: _____
_____, City Administrator

Res. No. _____

Exhibit A
Coronavirus Relief Fund Certification

**JOINT POWERS AGREEMENT
BETWEEN CITY OF XXXXX
AND THE DAKOTA COUNTY COMMUNITY DEVELOPMENT AGENCY
FOR ADMINISTRATION OF THE SMALL BUSINESS RELIEF GRANT PROGRAM
FUNDED WITH CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT FUNDS**

PARTIES

The parties to this Agreement are the Dakota County Community Development Agency (herein called "CDA") and the City of _____ (herein called the "CITY"),, collective referred to as "the Parties". This Agreement is made pursuant to the authority conferred upon the parties by Minn. Stat. § 471.59.

RECITALS

WHEREAS, the Coronavirus Aid, Relief, and Economic Security (CARES) Act as signed into law by President Trump on March 27, 2020, providing the State of Minnesota \$1.87 billion, of which 45 percent may be distributed to local jurisdictions as Coronavirus Relief Funds (CRF) pursuant to eligibility criteria established by the U.S. Department of Treasury; and

WHEREAS, the creation of a small business relief grant program is an eligible CRF expenditure to reimburse the costs of business interruption caused by required closures.

WHEREAS, the CDA was authorized by the Dakota County Board of Commissioners on July 14, 2020, to implement a small business relief grant on behalf of Dakota County with Coronavirus Aid, Relief, and Economic Security (CARES) Act funding by County Board Resolution No. 20-346 (the "Dakota County Grant Program"); and

WHEREAS, pursuant to CDA Board Resolution No. 20-6292, the CDA Board of Commissioners authorized the CDA Executive Director to enter into a Contract for Professional Services with NEXTSTAGE, a Minnesota non-profit organized under Minnesota Statutes Chapter 317A, for the implementation of a small business relief grant program effective July 14, 2020; and

WHEREAS, pursuant to CDA Board Resolution No. 20-_____, the CDA Board of Commissioners authorized a First Amended Contract for Professional Services with the NEXTSTAGE to allow the service performed by NEXTSTAGE to be extended to small business grant programs implement for cities in Dakota County to be administered by the CDA under the same terms and conditions as the Dakota County Grant Program, including grant agreement form attach as Exhibit "A"; and

WHEREAS, by City Council Resolution No. _____, CITY authorized up to \$_____ to fund grant awards and up to \$_____ for administrative expenses to implement a small business relief grant under the same guidelines as the Dakota County Grant Program as described in the attached Exhibit A (the "Program Guidelines"), but available exclusively to eligible business applicants located within the CITY's corporate limits (the "CITY's Grant Program"); and

WHEREAS, CITY requests the CDA to administer the CITY's Grant Program through the services of NEXTSTAGE; and

WHEREAS, the CARES fund allocation must be expended by November 15, 2020 or returned to the State of Minnesota.

ACCORDINGLY, the parties agree:

AGREEMENT

1. Term of Agreement.
 - 1.1 Effective Date: The date all required signatures are obtained.
 - 1.2 Expiration Date: February 15, 2021, or until all obligations have been satisfactorily fulfilled, whichever occurs first, but all payments must be made prior to November 15, 2020
 - 1.3 Survival of Terms. The following clauses shall survive the expiration or cancellation of this Agreement: 8 Liability and Indemnification; 9 Records Retention and Audits; 10 Government Data Practices; 12 Governing Law, Jurisdiction and Venue.

2. Cooperation

The Parties agree to cooperate and use their reasonable efforts to ensure prompt implementation of the various provisions of this Agreement, and to in good faith, undertake resolution of any dispute in an equitable and timely manner.

3. Roles and Responsibilities

3.1 Duties of the City

- 3.1.1 Make direct payments (via check) to businesses awarded grants up to a total of \$_____ for all grants awarded.
- 3.1.2 Make payments to CDA for Program administrative costs up to a total of \$_____ to implement and administer the program, including associated contract cost, pursuant to the fee schedule attached as Exhibit "B".
- 3.1.2 Collect and track program performance measurements.
- 3.1.4 Complete all Monthly Expenditure Reports for Local Governments to MMB.

3.2 Duties of the CDA

- 3.2.1 The CDA has procured and entered into a contractual agreement with NEXTSTAGE, a qualified contractor to implement the Program.
- 3.2.2 The CDA has developed marketing materials and advertised the Program in collaboration with Dakota County, cities, chambers of commerce, and business associations, to reach as many eligible businesses as possible to apply for small business relief grants.
- 3.2.3 The CDA will oversee work of NEXTSTAGE on every stage of CITY's Grant Program from application development, to selection, review, and award of grants, to audit of grantees.
- 3.2.4 Review all fully executed grant agreements in the form attached as Exhibit "B" and funding requests to each grantee (small business) before submitting to City for payment.
- 3.2.5 Comply with the terms of the subrecipient agreement for the allocation and use of CARES funds for this Program.

4. Funding/Payment.

- 4.1 The CITY will allocate \$_____ to fund grant awards and another \$_____ for administrative expenses related to the CITY's Grant Program.
- 4.2 The CDA will submit reimbursement requests to the CITY for approved Program administrative expenses within 30 days of paying the original invoices.
- 4.3 Reimbursements to the CDA from the CITY shall be due within 30 days of receipt of reimbursement request.
- 4.4 The funding is subject to CITY and CDA entering into a subrecipient agreement for the allocation and use of CARES funds.

5. Authorized Representatives.

The following named person are designated the Authorized Representatives of the Parties for the purposes of this Agreement. These persons have the authority to bind the party they represent and to consent to modifications, except that the Authorized representative shall have only the authority specifically or generally granted by their respective governing boards. Notice required to be provided pursuant to this Agreement shall be provided to the following named persons and addresses unless otherwise stated in this Agreement of in a modification of this Agreement:

TO THE CITY:

TO THE CDA: Tony Schertler
 Executive Director
 Community Development Agency
 1228 Town Centre Drive
 Eagan, MN 55123

In addition, notification to the CDA regarding termination of this Agreement by the CITY shall be provided to the Office of the Dakota County Attorney, Civil Division, 1560 Highway 55, Hastings, Minnesota 55033.

6. LIAISONS.

To assist the Parties in the day-to-day performance of this Agreement and to ensure compliance and provide ongoing consultation, a liaison shall be designated by the CITY and the CDA. The Parties shall keep each other continually informed, in writing, of any change in the designated liaison. At the time of execution of this Agreement, the following persons are designated liaisons:

FOR THE CITY:

FOR THE CDA: Lisa Alfson

7. Assignment, Amendments, Waiver and Contract Complete.

- 7.1 Assignment. No party shall assign or transfer any rights or obligations under this Agreement without the prior written consent of the party.
- 7.2 Amendments. Any amendments to this Agreement must be in writing and will not be effective until it has been approved and executed by each party.
- 7.3 Waiver. If either Party fails to enforce any provision of this Agreement, that failure does not waive the provision or that Party's right to enforce it.
- 7.4 Agreement Complete. This Agreement contains all negotiations and agreements between the CITY and the CDA. No other understanding regarding this Agreement, whether in written or oral form, may be used to bind either party.

8. Liability and Indemnification.

Each party to this Agreement shall be liable for the acts of its officers, employees or agents and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other party, its officers, employees or agents. The provisions of the Municipal Tort Claims Act, Minn. Stat. ch. 466 and other applicable laws govern liability of the CITY and the CDA. Each insurance party warrants that they are able to comply with the aforementioned indemnity requirement through an insurance or self-insurance program and that each has minimum coverage with the liability limits contained in Minn. Stat. ch. 466. In the event of any claims or actions filed against either party, nothing in this Agreement shall be construed to allow a claimant to obtain separate judgments or separate liability caps from the individual Parties. The provisions of this section shall survive the expiration or termination of this Agreement.

9. Records Retention and Audits

Each party shall retain receipts for and maintain detailed records of all expenses related to this Agreement. The Parties records, documents, papers, accounting procedures and practices, and other records relevant to this Agreement are subject to the examination, duplication, transcription and audit by the other party, the Legislative Auditor, or State Auditor under Minn. Stat. § 16C.05, subd. 5. If services under this Agreement use federal funds,

these records are also subject to review by the Comptroller General of the United States and his or her approved representative. Following termination of this Agreement the Parties must keep records for six years, or longer if any audit-in-progress needs a longer retention time.

10. Government Data Practices

The Parties must comply with the Minnesota Government Data Practices Act, Minn.Stat. Ch. 13 as it applies to all data provided under this Agreement and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Parties under this Agreement. The civil remedies of Minn.Stat. 13.08 apply to the release of the data referred to in this clause by either of the Parties.

11. Termination

Either party may terminate this Agreement for cause by giving seven days written notice or without cause by giving 30 days written notice, of its intent to terminate, to the other party. Such notice to terminate for cause shall specify the circumstances warranting termination of this Agreement. Cause shall mean a material breach of this Agreement and any supplemental agreements or amendments thereto. Notice of Termination shall be made by certified mail or personal delivery to the authorized representative of the other party.

Notwithstanding any provision of this Agreement to the contrary, the CITY may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, Minnesota Agencies, or other funding source, or if its funding cannot be continued at a level sufficient to allow payment of amounts dues under this Agreement. Written Notice of Termination sent by the CITY to the CDA by facsimile is sufficient notice under this section. The CITY is not obligated to pay for any services that are provided after written Notice of Termination for lack of funding. The CITY will not be assessed any penalty or damages if the Agreement is terminated dues to lack of funding.

12. Governing Law, Jurisdiction and Venue

This Agreement shall be governed by and construed in accordance with the substantive and procedural laws of the State of Minnesota, without giving effect to the principles of conflict of laws. All proceedings related to this Agreement shall be venued in the County of Dakota, State of Minnesota.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates indicated below.

APPROVED AS TO FORM:

**DAKOTA COUNTY COMMUNITY
DEVELOPMENT AGENCY**

Assistant County Attorney/Date
KS-2020-

By: _____
Tony Schertler, Executive Director
Date of Signature: _____

Res. No. _____

CITY OF XXXXXX

By: _____
_____, Mayor

By: _____
_____, City Administrator

Res. No. _____

EXHIBIT A
GRANT AGREEMENT FORM

EXHIBIT B
FEE SCHEDULE

Batch No _____
Funder _____

Application ID: CSBRP(then APP ID)

**GRANT AGREEMENT FOR
DAKOTA COUNTY SMALL BUSINESS RELIEF GRANT PROGRAM**

This Agreement is between the City of _____, ADDRESS, Minnesota ZIP CODE (“CITY”) and (GRANTEE’s Name) _____ (“GRANTEE”), _____ (GRANTEE’s address).

WHEREAS, as part of the Coronavirus Aid, Relief and Economic Security (CARES) Act, the Coronavirus Relief Fund (CRF) was established to assist States and eligible units of local government to respond to COVID-19; and

WHEREAS, one of the eligible uses of CRF dollars is providing grants to small businesses to reimburse the costs of business interruption caused by the COVID-19 pandemic; and

WHEREAS, the City Council of _____ (“COUNCIL”) approved the disbursement of a portion of the funds it received under CARES as grants to small businesses for eligible business interruption expenses; and

WHEREAS, the Dakota County Community Development Agency (CDA) is managing the grant administration in accordance with an agreement between the CDA and CITY.

WHEREAS, the CDA has contracted with NEXTSTAGE, a Minnesota non-profit organization, for grant administration services; and

WHEREAS, GRANTEE has made an application for a grant award and has been selected for grant funding in accordance with the terms of this Agreement;

The CITY and GRANTEE agree as follows:

1. TERM AND AMOUNT OF GRANT

GRANTEE shall complete all grant requirements (“Grant Requirements”) commencing upon both parties signing this agreement and expiring six months thereafter or when all requirements of the Agreement have been complete, whichever comes first, unless cancelled or terminated earlier in accordance with the provisions herein.

The total amount of this grant is \$_____ (“Grant Funds”).

2. GRANT REQUIREMENTS

By entering into this Grant Agreement, GRANTEE certifies that it is a for-profit business organized under the laws of Minnesota with a physical establishment located within the

boundaries of the City of _____ and that as of March 1, 2020, all of the following are true and correct:

- GRANTEE had no more than 50 full-time (or equivalent) employees; and
- GRANTEE was and still is majority owned by a permanent resident of Minnesota.

GRANTEE acknowledges that the source of funds for this Grant Agreement is from the CRF provided to the CITY and approved for disbursement by the COUNCIL as small business grants to reimburse the costs of business interruption caused by the COVID-19 pandemic. GRANTEE acknowledges that this grant may be subject to federal and state taxes.

GRANTEE further certifies that as of the date this Agreement is signed, all of the following are true and correct:

- GRANTEE is in good standing and required filings are current with the Minnesota Secretary of State;
- GRANTEE is in good standing with the Minnesota Department of Revenue;
- GRANTEE is in good standing with Dakota County and the CITY;
- GRANTEE is current on property taxes that were ordinarily due and payable on or before May 15, 2020, or on a County-approved payment plan, if applicable;
- GRANTEE experienced significant loss in revenue since March 15, 2020, and incurred costs due to COVID-19-related business interruption and required closures; GRANTEE was adversely affected by Executive Orders related to COVID-19 business restrictions and experienced financial hardship as a result of COVID-19; and
- GRANTEE has not and will not receive COVID-related emergency funds related to its application through the State of Minnesota, including but not limited to funds from either the Small Business Emergency Loan (SBEL) or DEED Small Business Relief Grant Program

3. DOCUMENTATION OF ELIGIBLE COSTS OF BUSINESS INTERRUPTION

As part of its application, GRANTEE has provided documentation to demonstrate that the GRANTEE has experienced a business interruption (“Interruption”) due to COVID-19 and is otherwise eligible to receive the grant funds in accordance with the Grant Requirements stated above.

GRANTEE shall provide an itemized and documented list of eligible costs incurred as a result of the Interruption, as more fully described in Attachment A.

The undersigned representative of the GRANTEE represents that the undersigned is duly authorized to bind the Grantee to this Agreement and affirms all statements and information that has been submitted or will be submitted to the CITY are true and correct and that the documented costs have not and will not be reimbursed through any other federal, state or local funding source.

4. GRANT DISBURSEMENT

CITY shall pay Grant Funds directly to GRANTEE within twenty (20) business days of a fully executed Grant Agreement and submission of all necessary documentation supporting the eligible costs and submission of GRANTEE's W-9.

5. INDEPENDENT CONTRACTOR

Nothing is intended nor should be construed as creating or establishing the relationship of a partnership or a joint venture between the parties or as constituting GRANTEE as the agent, representative, or employee of the CITY for any purpose. GRANTEE is and shall remain an independent contractor under this Agreement.

6. NON-DISCRIMINATION

GRANTEE shall not exclude any person from full employment rights nor prohibit participation in or the benefits of any program, service or activity on the grounds of any protected status or class including but not limited to race, color, creed, religion, age, sex, disability, marital status, sexual orientation, public assistance status, or national origin. No person who is protected by applicable federal or state laws against discrimination shall be subjected to discrimination.

7. INDEMNIFICATION

GRANTEE shall defend, indemnify, and hold harmless the CITY, CDA, NEXTSTAGE and their present and former officials, officers, agents, volunteers, and employees from any liability, claims, causes of action, judgments, damages, losses, costs, demands for repayment or expenses, including attorney's fees, resulting directly or indirectly from any fraudulent act or use of Grant Funds by the GRANTEE, a subcontractor, anyone directly or indirectly employed by GRANTEE, and/or anyone for whose acts and/or omissions GRANTEE may be liable in the performance of this Agreement.

8. DATA PRIVACY AND SECURITY

In accordance with Minnesota Statute Section 13.599, all applications and their contents are private or nonpublic until the applications are opened. Once the applications are opened, the name and address of each applicant and the amount requested is public. All other data in an application is private or nonpublic data until completion of the evaluation process, which is defined by statute as when the CITY has completed negotiating the grant agreement with the selected applicant.

After the CITY has completed the evaluation process, all remaining data in the applications is public with the exception of trade secret data as defined and classified in Minn. Stat. § 13.37, Subd. 1(b). A statement by an applicant that the application is copyrighted or otherwise protected does not prevent public access to the application or its contents. (Minn. Stat. § 13.599, subd. 3(a)).

If an applicant submits any information in an application that it believes to be trade secret information, as defined by Minnesota Statute Section 13.37, the applicant must:

- Clearly mark all trade secret materials in its application at the time it is submitted,
- Include a statement attached to its application justifying the trade secret designation for each item, and
- Defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless CITY, its agents and employees, from any judgments or damages awarded against CITY in favor of the party requesting the materials, and any and all costs connected with that defense.
- This indemnification survives CITY's award of a grant agreement. In submitting an application in response to this Program, the applicant agrees that this indemnification survives as long as the trade secret materials are in possession of CITY. The CITY will not consider the prices submitted by the responder to be proprietary or trade secret materials.

CITY reserves the right to reject a claim that any particular information in an application is trade secret information if it determines the applicant has not met the burden of establishing that the information constitutes a trade secret. CITY will not consider the budgets submitted by applicants to be proprietary or trade secret materials. Use of generic trade secret language encompassing substantial portions of the application or simple assertions of trade secret without substantial explanation of the basis for that designation will be insufficient to warrant a trade secret designation.

If a grant is awarded to an applicant, CITY may use or disclose the trade secret data to the extent provided by law. Any decision by the CITY to disclose information determined to be trade secret information will be made consistent with the Minnesota Government Data Practices Act (Minnesota Statutes chapter 13) and other relevant laws and regulations.

If certain information is found to constitute trade secret information, the remainder of the application will become public; in the event a data request is received for application information, only the trade secret data will be removed and remain nonpublic.

9. RECORDS – AVAILABILITY/ACCESS AND RIGHT TO AUDIT

Subject to the requirements of Minnesota Statutes § 16C.05, subd. 5, NEXTSTAGE (Grant Administrator), the CITY, the CDA, the State Auditor, or any of their authorized representatives which may include other independent financial analysts at any time during normal business hours, and as often as they may reasonably deem necessary, shall have access to and the right to request submission of documentation, examine, audit, excerpt, and transcribe any books, documents, papers, records, or other data, which are pertinent to the accounting practices and procedures of GRANTEE and involve transactions relating to this Agreement. GRANTEE shall maintain these materials and allow access during the period of this Agreement and for six (6) years after its expiration, cancellation or termination.

10. SUCCESSORS, SUBCONTRACTING AND ASSIGNMENTS

- A. GRANTEE shall not assign, transfer or pledge this Agreement whether in whole or in part, nor assign any monies due or to become due to it without the prior written consent of the CITY. A consent to assign shall be subject to such conditions and provisions as the CITY may deem necessary, accomplished by execution of a form prepared by the CITY and signed by GRANTEE, and the assignee. Permission to assign, however, shall under no circumstances relieve GRANTEE of its liabilities and obligations under the Agreement.
- B. GRANTEE shall not subcontract this Agreement whether in whole or in part, without the prior written consent of the CITY.

11. MERGER, MODIFICATION AND SEVERABILITY

- A. The entire Agreement between the parties is contained herein and supersedes all oral agreements and negotiations between the parties relating to the subject matter. All items that are referenced or that are attached are incorporated and made a part of this Agreement. If there is any conflict between the terms of this Agreement and referenced or attached items, the terms of this Agreement shall prevail.

GRANTEE and/or the CITY are each bound by its own electronic signature(s) on this Agreement, and each agrees and accepts the electronic signature of the other party.

- B. Any alterations, variations or modifications of the provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement signed by the parties. Except as expressly provided, the substantive legal terms contained in this Agreement including but not limited to Indemnification, Insurance, Merger, Modification and Severability, Default and Cancellation/Termination or Minnesota Law Governs may not be altered, varied, modified or waived by any change order, implementation plan, scope of work, development specification or other development process or document.
- C. If any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions will not be affected.

12. DEFAULT AND CANCELLATION/TERMINATION

- A. If GRANTEE fails to perform any of the provisions of this Agreement including providing false, misleading or incomplete information in documents submitted to the CITY or documented in Attachment A, fails to use Grant Funds exclusively for costs included in Exhibit A or uses other sources of federal funds for costs included in Exhibit A, the performance of the Agreement or otherwise breaches or fails to comply with any of the terms of this Agreement, it shall be in default.

Unless GRANTEE's default is excused in writing by the CITY, the CITY may upon written notice immediately cancel or terminate this Agreement in its entirety and may demand repayment in full of the Grant Funds. Additionally, failure to comply with the terms of this Agreement shall be just cause for the CITY to delay payment until GRANTEE's compliance. In the event of a decision to withhold payment, the CITY shall furnish prior written notice to GRANTEE.

- B. Notwithstanding any provision of this Agreement to the contrary, GRANTEE shall remain liable to the CITY for damages sustained by the CITY by virtue of any breach of this Agreement by GRANTEE. Upon notice to GRANTEE of the claimed breach and the amount of the claimed damage, the CITY may withhold any payments to GRANTEE for the purpose of set-off until such time as the exact amount of damages due the CITY from GRANTEE is determined. Following notice from the CITY, CDA or NEXTSTAGE of the claimed breach and damage, GRANTEE and the CITY shall attempt to resolve the dispute in good faith.
- C. The above remedies shall be in addition to any other right or remedy available to the CITY under this Agreement, law, statute, rule, and/or equity.
- D. The CITY's failure to insist upon strict performance of any provision or to exercise any right under this Agreement shall not be deemed a relinquishment or waiver of the same, unless consented to in writing. Such consent shall not constitute a general waiver or relinquishment throughout the entire term of the Agreement.
- E. If this Agreement expires or is cancelled or terminated, with or without cause, by either party, at any time, GRANTEE shall not be entitled to any payment, fees or other monies.
- F. Upon written notice, the CITY may immediately suspend or cancel/terminate this Agreement in the event any of the following occur: (i) the CITY does not obtain anticipated funding from the federal government for this project; (ii) funding for this project from the federal government is withdrawn, frozen, shut down, is otherwise made unavailable or the CITY loses the outside funding for any other reason.

13. SURVIVAL OF PROVISIONS

Provisions that by their nature are intended to survive the term, cancellation or termination of this Agreement do survive such term, cancellation or termination. Such provisions include but are not limited to: SERVICES TO BE PROVIDED; GRANT REQUIREMENTS; INDEPENDENT CONTRACTOR; INDEMNIFICATION; DUTY TO NOTIFY; DATA PRIVACY AND SECURITY; RECORDS- AVAILABILITY/ACCESS; DEFAULT AND CANCELLATION/TERMINATION; MEDIA OUTREACH; and MINNESOTA LAW GOVERNS.

14. GRANT ADMINISTRATION

The CDA is managing the grant administration in accordance to the agreement between the CDA and CITY. The CDA has contracted with NEXTSTAGE for grant administration services. NEXTSTAGE will serve as liaison between the CDA, CITY, and GRANTEE.

_____ shall manage the agreement on behalf of GRANTEE. GRANTEE may replace such person but shall immediately give written notice to the CITY of the name, phone number and email address of such substitute person and of any other subsequent substitute person.

15. COMPLIANCE AND NON-DEBARMENT CERTIFICATION

- A. GRANTEE shall comply with all applicable federal, state and local statutes, funding sources, regulations, rules and ordinances currently in force or later enacted.
- B. GRANTEE certifies that it is not prohibited from doing business with either the federal government or the state of Minnesota as a result of debarment or suspension proceedings.
- C. Because the source or partial source of funds for payment under this Agreement is from federal or state monies or from a federal, state or other grant source, GRANTEE is bound by and shall comply with applicable law, rules, regulations, applicable documentation or other directives relating to the source and utilization of such funds including but not limited to applying for Grant Funds that have been or will be reimbursed under any federal, county, city or state program.

16. NOTICES

Unless the parties otherwise agree in writing, any notice or demand which must be given or made by a party under this Agreement or any statute or ordinance shall be in writing and shall be sent registered or certified mail. Notices to the CITY shall be sent to the Director of Community Development at the address given in the opening paragraph of this Agreement. Notice to GRANTEE shall be sent to the address stated in the opening paragraph of this Agreement.

17. CONFLICT OF INTEREST

GRANTEE affirms that to the best of GRANTEE's knowledge, GRANTEE's involvement in this Agreement does not result in a conflict of interest with any party or entity which may be affected by the terms of this Agreement. Should any conflict or potential conflict of interest become known to GRANTEE, GRANTEE shall immediately notify the CITY of the conflict or potential conflict, specifying the part of this Agreement giving rise to the conflict or potential conflict, and advise the CITY whether GRANTEE

will or will not resign from the other engagement or representation. Unless waived by the CITY, a conflict or potential conflict may, in the CITY's discretion, be cause for cancellation or termination of this Agreement.

18. MINNESOTA LAWS GOVERN

The laws of the state of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the parties and their performance. The appropriate venue and jurisdiction for any litigation will be those courts located within the County of Dakota, State of Minnesota. Litigation, however, in the federal courts involving the parties will be in the appropriate federal court within the state of Minnesota.

[Signature page follows]

I hereby agree to the terms outlined in the Agreement.

CITY:
CITY of _____

By: _____
Its _____

Date: _____

GRANTEE:
GRANTEE Name

By: _____
Owner's Name
Its _____

Date: _____

NextStage Proposal

to administer

The Dakota County Business Relief Program 2020

July 1, 2020

COMPENSATION PROPOSAL:

Task Description	Task Rate	Grant Count		
		200	500	1000
Application Management	\$10,000	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00
Eligibility Review & Documentation	\$200/Grant	\$ 40,000.00	\$ 100,000.00	\$ 200,000.00
Grant Agreement Generation and Closing	\$75/Grant	\$ 15,000.00	\$ 37,500.00	\$ 75,000.00
Grant Eligible Use Audit	\$250/Grant	\$ 5,000.00	\$ 12,500.00	\$ 25,000.00
Final Report	\$3,000	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00
Overhead/Admin	10%	\$ 7,300.00	\$ 16,300.00	\$ 31,300.00
Total Proposed Fee		\$ 80,300.00	\$ 179,300.00	\$ 344,300.00
Percent of Program @ \$10,000/Grant		4.02%	3.59%	3.44%

The combined number of grant agreements for both County and City fund-businesses exceeds 1,000.