

Amendment # 1 for Grant Contract Agreement

Grant Contract Agreement Start
Date: 6/24/19

Original Grant Contract
Agreement Expiration Date: 6/23/24

Current grant Contract
Agreement Expiration Date: 6/23/24

Request Grant Contract
Agreement Expiration Date: 12/31/24

This amendment is by and between the State of Minnesota, through its Commissioner of Employment and Economic Development (“State Entity”) and the City of Duluth, Minnesota (“Grant Recipient”).

Recitals

1. The State Entity has a grant contract agreement with the Grant Recipient identified as **[INSERT GRANT CONTRACT AGREEMENT NUMBER OR OTHER IDENTIFYING INFORMATION (EXAMPLE, “Dated _____” OR CFMS Contract Number)]** (“Original Grant Agreement”) pursuant to Minnesota Laws 2019, First Special Session, Chapter 6, Article 10, as may be amended from time to time (the “Act”), to provide up to \$97,720,000 to finance seven public infrastructure projects (“Projects”) within a Regional Exchange District subject to the further conditions in the Original Grant Agreement. Terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Original Grant Agreement.
2. The Commissioner of Minnesota Management and Budget (“MMB”) sold State of Minnesota State General Fund Appropriation Bonds, Taxable Series 2020A (Duluth Regional Exchange District), dated November 5, 2020, and State General Fund Appropriation Bonds, Taxable Series 2021A (Duluth Regional Exchange District), dated November 2, 2021, to provide \$=71,900,000 in state appropriation support payments for the purposes as further described in this Amendment.
3. The Grant Recipient intends to apply the Grant amounts provided by this Amendment to a subset of the Projects authorized for state appropriation support payments under the Act.
4. In accordance with Section 6, subd. 3 of the Act, as codified by Minn. Stat. §469.54, subd. 3, no Advance for any parking structure for a medical business entity will be processed by the State Entity until the State Entity has certified that the medical business entity that would benefit from the parking structure

has made qualified expenditures as described in Section 5.29.B of the Original Grant Agreement.

5. The State Entity certified on September 9, 2020, that Medical Entity West had made at least \$50,000,000 in qualified expenditures under Minn. Stat. §469.54 and as such the Grant funds provided by this Amendment may provide for the public financing of the parking ramps identified in Recital C, items 1 and 2 of the Original Grant Agreement.
6. As of the date of this Amendment, Medical Entity East has not yet met the \$50,000,000 qualified expenditure threshold in Minn. Stat. §469.54 and therefore no portion of the amounts provided by this Amendment may be expended on the parking ramp identified in Recital C, item 7 of the Original Grant Agreement.
7. The State and the Grantee are willing to amend and supplement the Original Grant Agreement as stated below.

Grant Agreement Amendment

Section 1. The Grant Recipient reasonably intends to apply the Grant amounts provided in this Amendment to the following projects:

Project 1. Demolition and replacement of a skywalk connected to an existing medical district parking ramp in an amount not to exceed \$2,100,000, including any land acquisition (“MDR Skywalk Replacement”);

Project 2. A ramp with up to 1,400 new parking stalls and a skywalk to serve medical entity west in an amount not to exceed \$37,900,000, including any land acquisition (“MD2 Parking Development”);

Project 3. Extension of 6th Avenue East from 2nd Street to 1st Street in an amount not to exceed \$6,650,000, including any land acquisition (“6th Avenue East Construction”);

Project 4. [Omitted for purposes of this Amendment];

Project 5. Roadway, utility, and site improvements and capacity upgrades to support medical entity west hospital construction in an amount not to exceed \$13,950,000 (“Infrastructure Improvements”);

Project 6. District energy connections, capacity enhancement, a pressure pump station, and district energy utility improvements outside of the district reasonably necessary and advantageous to service developments within the district in an amount not to exceed \$7,000,000 (“District Energy Projects”);

Project 7. [Omitted for purposes of this Amendment]; and

Project 8. Site improvements made upon private property and within the public realm, including retaining walls, public sidewalks, public stairs, and other related infrastructure, necessary to support medical entity west hospital construction in an amount not less than \$1,300,000 or in excess of \$4,300,000 (“Site Improvements”).

Section 2. “Real Property” for purposes of the Original Grant Agreement as amended by this Amendment means the real property located within the Regional Exchange District in the County of St. Louis, State of Minnesota, legally described in **Attachment I** to this Amendment.

Section 3. The Useful Life of the Real Property and, if applicable, Facilities subject to this Amendment is shown in **Attachment II** to this Amendment for each Project identified in Section 1.

Section 4. Pursuant to Section 2.09 of the Original Grant Agreement, the State Entity hereby acknowledges that the first Project subject to this Amendment started effective as of June 24, 2019, which was the effective date of the Construction Contract Documents that have been entered into by the Grant Recipient or its Designee.

Section 5. The Grant Recipient represents to the State Entity and the Commissioner of MMB that **Attachment III** is intended to be a source and use statement for purposes of Section 5.24 of the Original Grant Agreement and shows the total cost of the Projects or Project phases being funded as part of this Amendment and all of the funds that are available for the completion of the Projects or Project Phases identified in **Attachment III**. The information contained in **Attachment III** correctly and accurately delineates the information required by Section 5.24 of the Original Grant Agreement. Use of Grant Proceeds will be used for one or more of the eligible purposes identified in Section 2.02 of the Original Grant Agreement.

Section 6. The Grant Recipient represents to the State Entity and the Commissioner of MMB that **Attachment IV** correctly and accurately delineates the projected schedule for the completion of the Projects subject to this Amendment.

Section 7. The Grant Recipient shall execute and record a Declaration or Restrictive Covenant as provided

for in Section 2.04 of the Original Grant Agreement for those Projects covered by this Amendment .

Section 8. Notwithstanding anything to the contrary in this Amendment, in the event that a Project described in subparagraphs 1 through 4 and subparagraph 8 of Recital C of the Original Grant Agreement and identified in Section 1 above has been completed and there remains unexpended amounts allocated to said Project under the Act and this Amendment, such unexpended funds may be applied to fund the Project described in subparagraph 5 of Recital C of the Original Grant Agreement, provided that Grant Recipient has submitted a written plan to the Commissioner of Employment and Economic Development for the use of said unexpended amounts.

Section 9. Unless specifically amended, modified or changed by this Amendment, the Original Grant Agreement, as amended by all previous amendments, shall remain in full force and effect and unchanged. All initially capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Original Grant Agreement.

Section 10. The Recitals above are hereby incorporated into this Amendment.

[Remainder of page intentionally left blank]

3. STATE AGENCY

By: _____

Title: _____

Date: _____

1. STATE ENCUMBRANCE VERIFICATION

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

Signed: _____

Date: _____

SWIFT Contract/PO No(s). _____

2. GRANTEE

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

By: _____

Title: Mayor

Date: _____

ATTEST:

By: _____

Title: City Clerk

Date: _____

COUNTERSIGNED:

By: _____

Title: City Auditor

Date: _____

APPROVED AS TO FORM

By: _____

Title: City Attorney

Date: _____

Distribution:

Agency

Grantee

State's Authorized Representative

Attachment I to Grant Agreement Amendment

**LEGAL DESCRIPTION OR GENERAL DESCRIPTION
OF RESTRICTED PROPERTY**

PROJECT 1

Descriptions subject to correction and re-recording upon availability of as-built survey, provided that any revisions to the legal description below must have a land area that is equal to or less than the land area of the legal description below.

That part of Fourth Ave. E. adjacent to Lot 16, Block 26 and Lot 1, Block 25 in the plat of PORTLAND DIVISION lying between the northeasterly extension of the northwest line of said Lot 16, Block 26 and the northeasterly extension of the southeast line of said Lot 16, Block 26.

St. Louis County, Minnesota

PROJECT 2

Descriptions subject to correction and re-recording upon availability of as-built survey, provided that any revisions to the legal description below must have a land area that is equal to or less than the land area of the legal description below.

Lots 49, 51, 53, and 55, EAST FIRST STREET, DULUTH PROPER FIRST DIVISION

Lots 62 and 64, EAST SECOND STREET, DULUTH PROPER FIRST DIVISION

Lots 1-16, inclusive, Block 28, PORTLAND DIVISION OF DULUTH

Lots 13-16, inclusive, Block 48, PORTLAND DIVISION OF DULUTH

Placeholder for skywalk crossing 4th Ave. East.

St. Louis County, Minnesota

PROJECT 3

Descriptions subject to correction and re-recording upon availability of as-built survey, provided that any revisions to the legal description below must have a land area that is equal to or less than the land area of the legal description below.

That part of Sixth Ave. E. lying adjacent to and between Blocks 30, 31, 45 and 46 in PORTLAND DIVISION OF DULUTH lying southeast of the northeasterly extension of the northwest line of said Block 46 and northwest of the northeasterly extension of southeast line of said Block 30.

St. Louis County, Minnesota

PROJECT 5

Descriptions subject to correction and re-recording upon availability of as-built survey, provided that any revisions to the legal description below must have a land area that is equal to or less than the land area of the legal description below.

That portion of Fourth Ave. E. lying adjacent to and between Blocks 7, 8, 25, 26, 28, 29, 47, and 48 in PORTLAND DIVISION OF DULUTH lying southeast of the northeasterly extension of the northwest line of said Block 48 and northwest of the northeasterly extension of southeast line of said Block 7

AND

That portion of Superior St. in PORTLAND DIVISION OF DULUTH and THE PART OF DULUTH FORMERLY CALLED PORTLAND lying between the following four lines:

- (1) The northeast extension of the southeast line of said Block 7;
- (2) The northwest line of Block 5 in the plat of THE PART OF DULUTH FORMERLY CALLED PORTLAND;
- (3) The southeast extension of the northeast line of said Block 7; and
- (4) The southeast extension of the southwest line of said Block 8

AND

That portion of Second St. in PORTLAND DIVISION OF DULUTH lying between the southeast extension of the southwest line of Block 49 in said PORTLAND DIVISION OF DULUTH and the northwest extension of the southwest line of Block 45 in said PORTLAND DIVISION OF DULUTH.

That portion of First St. in PORTLAND DIVISION OF DULUTH lying between the southeast extension of the southwest line of Block 29 in said PORTLAND DIVISION OF DULUTH and the northwest extension of the southwest line of Block 23 in said PORTLAND DIVISION OF DULUTH.

The alley adjacent to and lying between Block 8, 9, 10, 23, 24 and 25 in PORTLAND DIVISION OF DULUTH lying between the east line of 4th Ave. E. and the northeast extension of the northeast line of said Block 10.

That portion of 7th Ave. E. (Washington Ave. per plat) in PORTLAND DIVISION OF DULUTH lying southeast of the northeast extension of the northwest line of Block 23 in said PORTLAND DIVISION OF DULUTH and northwest of the northeast extension of the northwest line of Block 10 in said PORTLAND DIVISION OF DULUTH.

That alley adjacent to and lying between Blocks 31 and 45 in the plat of PORTLAND DIVISION OF DULUTH lying between the southeasterly extension of the northwest line of said Block 45 and the southeasterly extension of the northeast line of said Block 45.

St. Louis County, Minnesota

PROJECT 6

Descriptions subject to correction and re-recording upon availability of as-built survey, provided that any revisions to the legal description below must have a land area that is equal to or less than the land area of the legal description below.

That portion of East and West Superior Street in the plats of DULUTH PROPER FIRST DIVISION, PORTLAND DIVISION OF DULUTH and THE PART OF DULUTH FORMERLY CALLED PORTLAND lying between the southeasterly extension of the northeast line of Lot 17, W. SUPERIOR ST. in said DULUTH PROPER FIRST DIVISION and the southeast extension of the southwest line of Lot 1, Block 8 in said PORTLAND DIVISION

AND

That portion of Fourth Ave. E. lying adjacent to and between Blocks 7, 8, 25, 26, 28, 29, 47, and 48 in PORTLAND DIVISION OF DULUTH lying southeast of the northeasterly extension of the northwest line of said Block 48 and northwest of the northeasterly extension of southeast line of said Block 7

AND

That portion of First Avenue West in the plat of CENTRAL DIVISION OF DULUTH lying southeast of the northeast extension of northwest line of Lot 18, Block 5 in said CENTRAL DIVISION OF DULUTH and northwest of the northeast extension of the northwest line of Lot 16, Block 11 in said CENTRAL DIVISION OF DULUTH

AND

Those portions of Lots 1-11, Block 12 in the plat of CENTRAL DIVISION OF DULUTH lying within fifty feet (50') of the northwest line of said Block 12.

AND

That portion of Lake Avenue in the plat of CENTRAL DIVISION OF DULUTH lying southeast of the northeast extension of Lot 11, Block 12 in said CENTRAL DIVISION OF DULUTH and northwest of the following described line: Beginning at the most easterly corner of Block 11, said CENTRAL DIVISION OF DULUTH; thence run northeasterly to a point on the southwesterly line of Lot 2, Block 13, said CENTRAL DIVISION OF DULUTH, distant 60 feet southeasterly of the most westerly corner thereof and there terminating.

AND

That part of Lot 1, Block 13, CENTRAL DIVISION OF DULUTH lying northwest of the following described line: Beginning at the most easterly corner of Block 11, said CENTRAL DIVISION OF DULUTH; thence run northeasterly to a point on the southwesterly line of Lot 2, Block 13, said CENTRAL DIVISION OF DULUTH, distant 60 feet southeasterly of the most westerly corner thereof and there terminating.

AND

Lots 16, 18, 20, Block 2, INDUSTRIAL DIVISION OF DULUTH

Attachment II to Grant Agreement Amendment

**USEFUL LIFE OF REAL PROPERTY AND, IF APPLICABLE, FACILITIES
FOR EACH PROJECT**

Project No.	Description	Useful Life
Project 1	MDR Skywalk Replacement	30 years
Project 2	MD2 Parking Development	30 years
Project 3	6 th Avenue East Construction	40 years
Project 5	Infrastructure Improvements	40 years
Project 6	District Energy Projects	50 years
Project 8	Site Improvements	40 years

**Attachment III to Grant Agreement Amendment-
SOURCE AND USE OF FUNDS FOR THE PROJECTS**

**PROJECT 1
MDR SKYWALK REPLACEMENT**

Source of Funds		Use of Funds	
<u>Identify Source of Funds</u>	<u>Amount</u>	<u>Identify Items</u>	<u>Amount</u>
Grant	\$2,100,000	Planning, acquisition, predesign, design, construction, site preparation, demolition costs, and furnishing and equipping costs for the demolition and reconstruction of a skywalk as fully described in the Agreement for Demolition and Reconstruction of MDR Skywalk Bridge between the City of Duluth and SMDC Medical Center, City Contract No. 23791, and any amendment thereto, on file with the City of Duluth and with State Entity.	\$2,100,000.00
Other State Funds	\$ n/a		Subtotal
Subtotal	\$ n/a	Items Paid for with Non-Grant Funds	\$ _____
Other Public Entity Funds	\$ n/a	_____	\$ _____
Subtotal	\$ n/a	_____	\$ _____
Loans	\$ n/a		
Other Funds			
Subtotal	\$ n/a		
Prepaid Project Expenses			
Subtotal	\$ n/a		
TOTAL FUNDS	\$2,100,000	TOTAL PROJECT COSTS	\$2,100,000

**Attachment III to Grant Agreement Amendment-
SOURCE AND USE OF FUNDS FOR THE PROJECTS**

**PROJECT 2
MD2 PARKING DEVELOPMENT**

Source of Funds		Use of Funds	
<u>Identify Source of Funds</u>	<u>Amount</u>	<u>Identify Items</u>	<u>Amount</u>
State Funds			
Grant	\$37,900,000	Planning, acquisition, predesign, design, construction, site preparation, demolition costs, and furnishing and equipping costs for the construction of a parking ramp as fully described in the Agreement for Property Acquisition and Construction of an Up to 1400 Stall Parking Ramp, Regional Exchange District Project between the City and St. Mary's Duluth Clinic Health System, d/b/a Essentia Health East, City Contract No. 23888, and any amendment thereto, on file with the City of Duluth and State Entity.	
	\$ n/a	Subtotal	\$38,900,000
Subtotal	\$ n/a	Items Paid for with Non-Grant Funds	
Subtotal	\$1,000,000	Subtotal	\$ n/a
Loans			
Subtotal	\$ n/a		
Other Funds			
Essentia Health	\$		
Subtotal	\$		
Prepaid Project Expenses			
	\$		
	\$		
Subtotal	\$		
TOTAL FUNDS	\$38,900,000	TOTAL PROJECT COSTS	\$38,900,000

SOURCE AND USE OF FUNDS FOR THE PROJECTS

PROJECT 3, 6TH AVENUE EAST CONSTRUCTION

Source of Funds		Use of Funds	
<u>Identify Source of Funds</u>	<u>Amount</u>	<u>Identify Items</u>	<u>Amount</u>
State Funds			
Grant	\$6,650,000	Planning, acquisition, predesign, design, construction, site preparation, demolition costs, and furnishing and equipping costs for the construction of an extension of right-of-way of 6 th Avenue East from 2 nd Street to 1 st Street as fully described in plans and specifications on file with the City of Duluth and further described in a Development Agreement between the City of Duluth and St. Mary's Duluth Clinic Health System, d/b/a Essentia Health East, to be placed on file with the City of Duluth and State Entity.	
	\$ n/a		
Subtotal	\$ n/a		Subtotal
		Items Paid for with Non-Grant Funds	
Subtotal	\$6,650,000	Subtotal	\$ n/a
Loans			
Subtotal	\$ n/a		
Other Funds			
Essentia Health	\$		
Subtotal	\$		
Prepaid Project Expenses			
	\$		
	\$		
Subtotal	\$		
TOTAL FUNDS	\$6,650,000	TOTAL PROJECT COSTS	\$6,650,000

**Attachment III to Grant Agreement Amendment-
SOURCE AND USE OF FUNDS FOR THE PROJECTS**

PROJECT 5, INFRASTRUCTURE IMPROVEMENTS

Source of Funds		Use of Funds	
<u>Identify Source of Funds</u>	<u>Amount</u>	<u>Identify Items</u>	<u>Amount</u>
State Funds			
Grant	\$13,950,000	<p>Planning, acquisition, predesign, design, construction, site preparation, demolition costs, and furnishing and equipping costs for the construction of roadway, utility, and site improvements and capacity upgrades to support medical entity west hospital construction as fully described in the following documents on file or to be filed with the City of Duluth and State Entity:</p> <p>(i) Phase 1: Agreement for Design and Construction of Road and Utility Work, 4th Avenue East, between the City of Duluth and St. Mary’s Duluth Clinic Health System, d/b/a Essentia Health East, City Contract No. 23828, and any amendment thereto; and</p> <p>(ii) Phase II: Agreement for Design and Construction of Road and Utility Work, Phase II, 2nd Street – 4th-6th Avenues East, between the City of Duluth and St. Mary’s Duluth Clinic Health System, d/b/a Essentia Health East, City Contract No. 24104, and any amendment thereto; and</p> <p>(iii) Phase III: Plans and Specifications for the reconstruction of 1st Street (4th Avenue East to 6th Avenue East) on file in the office of the City Engineer; and</p> <p>(iv) Phase IV: Plans and Specifications for the reconstruction of the alley located below E. 1st St, (4th Avenue East to 6th Avenue East)</p>	

on file in the office of the City Engineer.

	\$ n/a	Subtotal	\$13,950,000
Subtotal	\$ n/a	Items Paid for with Non-Grant Funds	
Subtotal	\$13,950,000	Subtotal	\$ n/a
Loans			
Subtotal	\$ n/a		
Other Funds			
Subtotal	\$		
Prepaid Project Expenses			
Subtotal	\$		
TOTAL FUNDS	\$13,950,000	TOTAL PROJECT COSTS	\$13,950,000

**Attachment III to Grant Agreement Amendment-
SOURCE AND USE OF FUNDS FOR THE PROJECTS**

PROJECT 6, DISTRICT ENERGY PROJECTS

Source of Funds		Use of Funds	
<u>Identify Source of Funds</u>	<u>Amount</u>	<u>Identify Items</u>	<u>Amount</u>
State Funds			
Grant	\$7,000,000	<p>Planning, acquisition, predesign, design, construction, site preparation, demolition costs, and furnishing and equipping costs for the construction of district energy connections, capacity enhancement, a pressure pump station, and district utility improvements as fully described in the following documents on file or to be filed with the City of Duluth and State Entity:</p> <p>(i) Agreement for Design and Construction of Road and Utility Work, 4th Avenue East, between the City of Duluth and St. Mary’s Duluth Clinic Health System, d/b/a Essentia Health East, City Contract No. 23828, and any amendment thereto; and</p> <p>(ii) Agreement for Design and Construction of Road and Utility Work, Phase II, 2nd Street – 4th-6th Avenues East, between the City of Duluth and St. Mary’s Duluth Clinic Health System, d/b/a Essentia Health East, City Contract No. 24104, and any amendment thereto; and</p> <p>(iii) plans and specifications for work conducted outside of the District on file on file in the office of the City Engineer.</p>	

**Attachment III to Grant Agreement Amendment-
SOURCE AND USE OF FUNDS FOR THE PROJECTS**

PROJECT 8, SITE IMPROVEMENTS

Source of Funds		Use of Funds	
<u>Identify Source of Funds</u>	<u>Amount</u>	<u>Identify Items</u>	<u>Amount</u>
State Funds			
Grant	\$1,300,000	Planning, acquisition, predesign, design, construction, site preparation, demolition costs, and furnishing and equipping costs for site improvements made upon private property and within the public realm, including retaining walls, public sidewalks, public stairs, and other related infrastructure, necessary to support medical entity west construction, as fully described in plans and specifications on file with the City of Duluth and further described in a Development Agreement between the City of Duluth and St. Mary's Duluth Clinic Health System, d/b/a Essentia Health East, to be placed on file with the City of Duluth and State Entity.	
	\$ n/a	Subtotal	\$1,300,000
Subtotal	\$ n/a	Items Paid for with Non-Grant Funds	
Subtotal	\$1,300,000	Subtotal	\$ n/a
Loans			
Subtotal	\$ n/a		
Other Funds			
Essentia Health	\$		
Subtotal	\$		
Prepaid Project Expenses			
	\$		
	\$		
Subtotal	\$		

TOTAL FUNDS	\$1,300,000
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TOTAL PROJECT COSTS	\$1,300,000
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**Attachment IV to Grant Agreement Amendment-
PROJECTS COMPLETION SCHEDULE**

Project No.	Description	Completion Date
Project 1	MDR Skywalk Replacement	9/2023
Project 2	MD2 Parking Development	12/2024
Project 3	6 th Avenue East Construction	9/2024
Project 5	Infrastructure Improvements	9/2024
Project 6	District Energy Projects	9/2024
Project 8	Site Improvements	9/2024