

## STATE OF MINNESOTA JOINT POWERS AGREEMENT

This agreement is between the State of Minnesota, acting through its Department of Administration ("State") and the City of Saint Paul ("Governmental Unit").

### Recitals

Under Minnesota Statute § 471.59, subdivision 10, the State is empowered to engage such assistance as deemed necessary. In accordance with the Laws of 2013, Chapter 143, Article 4, Section 39, an Entertainment Facilities Coordination Study and Report is being completed in consultation with the Cities of Minneapolis and Saint Paul. The Cities of Minneapolis and Saint Paul shall pay one-half of the cost of the consultant contract.

### Agreement

#### 1 Term of Agreement

- 1.1 *Effective date:* November 1, 2013, or the date the State obtains all required signatures under Minnesota Statutes Section 16C.05, subdivision 2, whichever is later.
- 1.2 *Expiration date:* June 30, 2014, or until all obligations have been satisfactorily fulfilled, whichever occurs first or unless earlier terminated pursuant to Section 10.

#### 2 Agreement between the Parties

The State will contract with an independent consultant and in consultation with representatives of the primary professional sports team tenant of each arena and the Government Unit shall study and report to the legislature on establishing a joint governing structure to be responsible for the joint administration, financing, and operations of the facilities and the possible effect of joint governance on the finances of each area and each city.

The Government Unit shall participate in the study and contribute funds for the independent consultant contract.

#### 3 Payment

Upon execution of the joint powers agreement, the Government Unit shall pay the State of Minnesota \$25,000 as provided for in the Laws of 2013, Chapter 143, Article 4, Section 39.

#### 4 Authorized Representatives

The State's Authorized Representative is Matt Bailey, Department of Administration, Assistant Commissioner, 50 Sherburne Avenue, Room 200, Saint Paul, MN 55155 – 651.201.2627, or his successor.

The Governmental Unit's Authorized Representative is Todd Hurley, Director, Office of Financial Services, 15 West Kellogg Blvd., Suite #700, St. Paul, MN 55102, 651.266.8549, or his successor.

#### 5 Assignment, Amendments, Waiver, and Contract Complete

- 5.1 *Assignment.* The Governmental Unit may neither assign nor transfer any rights or obligations under this agreement without the prior consent of the State and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this agreement, or their successors in office.
- 5.2 *Amendments.* Any amendment to this agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original agreement, or their successors in office.
- 5.3 *Waiver.* If the State fails to enforce any provision of this agreement, that failure does not waive the provision or its right to enforce it.
- 5.4 *Contract Complete.* This agreement contains all negotiations and agreements between the State and the Governmental Unit. No other understanding regarding this agreement, whether written or oral, may be used to bind either party.

**6 Indemnification**

In the performance of this contract by the Governmental Unit, or Governmental Unit's agents or employees, the Governmental Unit must indemnify, save, and hold harmless the State, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by the state, to the extent caused by Governmental Unit's:

- 1) Intentional, willful, or negligent acts or omissions; or
- 2) Actions that give rise to strict liability; or
- 3) Breach of contract or warranty.

The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the State's sole negligence. This clause will not be construed to bar any legal remedies the Governmental Unit may have for the State's failure to fulfill its obligation under this contract.

**7 State Audits**

Under Minnesota Statute § 16C.05, subdivision 5, the Governmental Unit's books, records, documents, and accounting procedures and practices relevant to this agreement are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this agreement.

**8 Government Data Practices**

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

If the Governmental Unit receives a request to release the data referred to in this Clause, the Governmental Unit must immediately notify the State. The State will give the Governmental Unit instructions concerning the release of the data to the requesting party before the data is released.

**9 Venue**

Venue for all legal proceedings out of this agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

**10 Termination**

**10.1 Termination.** The State or the Governmental Unit may terminate this agreement at any time, with or without cause, upon 30 days' written notice to the other party.

**10.2 Termination for Insufficient Funding.** The State may immediately terminate this agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the Governmental Unit. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Governmental Unit will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Governmental Unit notice of the lack of funding within a reasonable time of the State's receiving that notice.

**11 E-Verify Certification (In accordance with Minn. Stat. §16C.075)**

For services valued in excess of \$50,000, Contractor certifies that as of the date of services performed on behalf of the State, Contractor and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify program for all newly hired employees in the United States who will perform work on behalf of the State. Contractor is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at <http://www.mmd.admin.state.mn.us/doc/EVerifySubCertForm.doc>. All subcontractor certifications must be kept on file with Contractor and made available to the State upon request.

**1. STATE ENCUMBRANCE VERIFICATION**

*Individual certifies that funds have been encumbered as required by Minnesota Statute §§ 16A.15 and 16C.05.*

Signed: \_\_\_\_\_ Not Required \_\_\_\_\_

Date: \_\_\_\_\_

CFMS Contract No. A- \_\_\_\_\_

**2. GOVERNMENTAL UNIT**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**3. STATE AGENCY**

By: \_\_\_\_\_

(with delegated authority)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**4. COMMISSIONER OF ADMINISTRATION**

As delegated to Materials Management Division

By: \_\_\_\_\_

Date: \_\_\_\_\_

Distribution:

Agency

Governmental Unit

State's Authorized Representative - Photo Copy