

**STATE OF MINNESOTA  
PROFESSIONAL AND TECHNICAL SERVICES CONTRACT**

This contract is between the State of Minnesota, acting through its Commissioner of the Minnesota Department of Health ("State") and Minnesota Community Measurement, 3433 Broadway Street NE, Minneapolis, MN 55413 ("Contractor").

**Recitals**

1. Under Minn. Stat. § 15.061 and Minnesota Session Laws 2008, Chapter 358, Article 4, Sect. 5, Subd.4, the State is empowered to engage such assistance as deemed necessary.
2. The State is in need of an inventory of existing quality measures of health care providers in Minnesota and elsewhere in the United States and for this inventory to be shared with interested stakeholders at three public meetings.
3. The Contractor represents that it is duly qualified and agrees to perform all services described in this contract to the satisfaction of the State.

**Contract**

**1 Term of Contract**

- 1.1 **Effective date:** October 27, 2008, or the date the State obtains all required signatures under Minnesota Statutes Section 16C.05, subdivision 2, whichever is later.

**The Contractor must not begin work under this contract until this contract is fully executed and the Contractor has been notified by the State's Authorized Representative to begin the work.**

- 1.2 **Expiration date:** April 15, 2009 or until all obligations have been satisfactorily fulfilled, whichever occurs first.

- 1.3 **Survival of Terms.** The following clauses survive the expiration or cancellation of this contract: 8. Liability; 9. State Audits; 10. Government Data Practices and Intellectual Property; 12. Publicity and Endorsement; 13. Governing Law, Jurisdiction, and Venue; and 14. Data Disclosure.

**2 Contractor's Duties**

The Contractor, who is not a state employee, will, IN ACCORDANCE WITH MINNESOTA SESSION LAWS 2008, CHAPTER 358, ARTICLE FOUR, SEC. 5, SUBD. 3, WHICH STATES "NOTHING IN THIS SECTION IS INTENDED TO REPLACE OR DUPLICATE CURRENT PRIVATELY SUPPORTED ACTIVITIES RELATED TO QUALITY MEASUREMENT AND REPORTING IN MINNESOTA.":

Identify and document existing quality measures for purposes of public reporting and pay-for-performance, including the following characteristics:

- 1) definition of the measure;
- 2) data source(s) for calculating the measure;
- 3) methodology for calculating the measure;
- 4) part(s) of the delivery system being evaluated: e.g., physician, clinic, hospital, integrated system;
- 5) the relationship of the measure to desired outcome for the health care delivery system: e.g., improved quality of care; enhanced safety; reduced cost/more efficient resource use; improved quality of life; or other;

- 6) factors that affect the result of the quality measure that are outside of a provider's control, such as race/ethnicity; coverage source (e.g. private vs. public); age; and severity of illness;
- 7) other existing uses of the measure in Minnesota, such as pay-for-performance; regulatory/accreditation; and public reporting;
- 8) availability of state or national data that can be used with the quality measure to benchmark health care provider's performance;

In identifying and documenting existing quality measures, the contractor must minimally investigate the work and activities of the following organizations: Agency for Healthcare Research and Quality, National Quality Forum, Joint Commission, The Centers for Medicare and Medicaid Services, specialty societies, professional associations, and other national organizations. The contractor must also identify and document existing quality measurement activities underway in Minnesota, including the Minnesota Community Measurement Project, StratisHealth, Institute for Clinical Systems Improvement, the Department of Human Services, other State agencies, and others.

Contractor shall propose a format for the inventory to the Minnesota Department of Health by November 20, 2008. The inventory must also include the source and title of the measures.

**This inventory must be completed and delivered to the Minnesota Department of Health by December 5, 2008.**

- B) Design and implement a process to share this background information with key stakeholders (health care providers, health plan companies, consumers, employers or other health care purchasers, and state government) and solicit stakeholders' opinions about how to build a cohesive quality measurement and public reporting system in Minnesota. The process must involve sharing an overview of the inventory described above at three public meetings that must occur on or before December 15, 2008. These three meetings must occur with different audiences. At least one of these meetings must occur at a location other than the Twin Cities metro area.

The contractor must receive written comments from stakeholders and synthesize those comments in writing for public distribution. A written summary of those comments must be provided to the Minnesota Department of Health by January 9, 2009. These written materials will be posted on the Minnesota Department of Health's Health Reform website.

All information distributed at the public meetings must also be made available to the Minnesota Department

of Health for posting on its Health Reform website. All materials must be provided to the Minnesota Department of Health at least three days prior to the public meeting for which they are intended. The contractor may also choose to post materials on its website.

- C) The contractor agrees to participate in a weekly conference call or in-person meeting with the Minnesota Department of Health in order to provide progress updates.
- D) The Minnesota Department of Health will host public meetings; provide adequate public notice for these public meetings; and post agendas, minutes, presentation materials, any other materials distributed at the public meetings and written summaries of public comments.

### 3 Time

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

### 4 Consideration and Payment

4.1 *Consideration.* The State will pay for all services performed by the Contractor under this contract as follows:

(A) *Compensation.* The Contractor will be paid "IN ACCORDANCE WITH THE BREAKDOWN OF COSTS AS SET FORTH IN EXHIBIT A WHICH IS ATTACHED AND INCORPORATED INTO THIS CONTRACT." **75 PERCENT OF THE TOTAL AMOUNT SHALL BE PAID AFTER THE INVENTORY IS COMPLETED, SUBMITTED TO AND ACCEPTED BY THE MINNESOTA DEPARTMENT OF HEALTH; THE REMAINING BALANCE OF 25 PERCENT SHALL BE PAID AFTER INFORMATION IS SHARED WITH STAKEHOLDERS THROUGH THREE PUBLIC MEETINGS THAT MUST OCCUR PRIOR TO DECEMBER 15, 2008 AND THE DEPARTMENT RECEIVES A WRITTEN SUMMARY OF ALL PUBLIC COMMENTS ON THIS PRESENTATION.**

(B) *Travel Expenses.* Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Contractor as a result of this contract will not exceed \$402.00; provided that the Contractor will be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the current "Commissioner's Plan" promulgated by the commissioner of Employee Relations, which is incorporated in to this contract by reference. The Contractor will not be reimbursed for travel and subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out of state.

(C) *Total Obligation.* The total obligation of the State for all compensation and reimbursements to the Contractor under this contract will not exceed \$90,802.

#### 4.2. Payment

(A) *Invoices.* The State will promptly pay the Contractor after the Contractor presents an itemized invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services. The invoices must include a description of subcontractors' contributions to the inventory and the location of each public meeting. Invoices must be submitted timely and according to the following schedule:

- \$68,100 FOR THE INVENTORY OF QUALITY MEASURES OUTLINED ABOVE
- \$22,702 FOR THE PRESENTATION OF THIS INFORMATION AT THREE PUBLIC MEETINGS AND SUBSEQUENT SUBMISSION OF A WRITTEN SUMMARY OF STAKHOLDER COMMENTS.

(B) *Retainage.* Under Minnesota Statutes Section 16C.08, subdivision 5(b), no more than 90% of the amount due under this contract may be paid until the final product of this contract has been reviewed by the State's agency

head. The balance due will be paid when the State's agency head determines that the Contractor has satisfactorily fulfilled all the terms of this contract.

- (C) **Federal funds.** (Where applicable, if blank this section does not apply) Payments under this contract will be made from federal funds obtained by the State through Title \_\_\_\_\_ CFDA number \_\_\_\_\_ of the \_\_\_\_\_ Act of \_\_\_\_\_. The Contractor is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Contractor's failure to comply with federal requirements.

**5 Conditions of Payment**

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

**6 Authorized Representatives**

The State's Authorized Representative is Katherine Burns, Director, Quality Measurement, Transparency and Payment Reform Initiatives, 651.201.3562, or his/her successor, and has the responsibility to monitor the Contractor's performance and the authority to accept the services provided under this contract. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Contractor's Authorized Representative is James Chase, Executive Director, 3433 Broadway Street NE, Minneapolis, MN 55413, 612.455.2911 or his/her successor. If the Contractor's Authorized Representative changes at any time during this contract, the Contractor must immediately notify the State.

**7 Assignment, Amendments, Waiver, and Contract Complete**

- 7.1 **Assignment.** The Contractor may neither assign nor transfer any rights or obligations under this contract 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 contract, or their successors in office.
- 7.2 **Amendments.** Any amendment to this contract 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 contract, or their successors in office.
- 7.3 **Waiver.** If the State fails to enforce any provision of this contract, that failure does not waive the provision or its right to enforce it.
- 7.4 **Contract Complete.** This contract contains all negotiations and agreements between the State and the Contractor. No other understanding regarding this contract, whether written or oral, may be used to bind either party.

**8 Liability**

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

**9 State Audits**

Under Minn. Stat. § 16C.05, subd. 5, the Contractor's books, records, documents, and accounting procedures and practices relevant to this contract 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 contract.

**Government Data Practices and Intellectual Property**

10.1. **Government Data Practices.** The Contractor and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, (or, if the State contracting party is part of the judicial branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the State under this contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor under this contract. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minn. Stat. Ch. 13, by either the Contractor or the State.

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

**10.2. Intellectual Property Rights.**

(A) **Intellectual Property Rights.** All rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the WORKS and DOCUMENTS, shall be jointly owned by CONTRACTOR and the STATE. WORKS shall mean all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks or other materials whether intangible or electronic forms, prepared by the CONTRACTOR, its employees, and subcontractors, either individually or jointly with others in the performance of this Contract. DOCUMENTS shall mean the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether intangible or electronic forms, prepared by the CONTRACTOR, its employees, or subcontractors, in the performance of this Contract. The ownership interests of the State and the Contractor in the WORKS and DOCUMENTS shall equal the ratio of each party's contributions to the total described in the budget of this Contract, except that the STATE'S ownership interests in the WORKS and DOCUMENTS shall be not be less than 50 percent (50%). The party's ownership interesting the WORKS and DOCUMENTS shall not be reduced by any royalties or revenues received from the sale of the products or the licensing or other activities arising from the use of the WORKS and DOCUMENTS. Each party hereto shall, at the request of the other, execute all papers and perform all other acts necessary to transfer or record the appropriate ownership interests in the WORKS and DOCUMENTS.

**(B) Obligations**

- a. **Notification.** Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Contractor, including its employees and subcontractors, in the performance of this contract, the Contractor will immediately give the State's Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure thereon. All decisions regarding the filing of patent, copyright, trademark or service mark applications and/or registrations shall be the joint decision of the CONTRACTOR and the STATE, and the costs for such applications shall be divided as agreed by the parties at the time of the filing decisions. In the event the parties cannot agree on said filing decisions, the filing decision will be made by the STATE.
- b. **Representation.** The Contractor must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property Contractor and of the State as agreed herein, and that no Contractor employee, agent, or subcontractor retains any interest in and to the Works and Documents. The Contractor represents and warrants that the Works and Documents do not and will not infringe upon any intellectual property rights of others. Notwithstanding Clause 8, the Contractor will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the State, at the Contractor's expense, from any action or claim

brought against the State to the extent that it is based on a claim that all or part of the Works or Documents infringe upon the intellectual property rights of others. The Contractor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Contractor's or the State's opinion is likely to arise, the Contractor must, at the State's discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.

## **11 Workers' Compensation and Other Insurance**

Contractor certifies that it is in compliance with all insurance requirements specified in the solicitation document relevant to this Contract. Contractor shall not commence work under the contract until they have obtained all the insurance specified in the solicitation document. Contractor shall maintain such insurance in force and effect throughout the term of the contract.

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

## **12 Publicity and Endorsement**

12.1 *Publicity.* Any publicity regarding the subject matter of this contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this contract.

12.2 *Endorsement.* The Contractor must not claim that the State endorses its products or services.

## **13 Governing Law, Jurisdiction, and Venue**

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

## **14 Data Disclosure**

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

**15 Payment to Subcontractors**

(If applicable) As required by Minn. Stat. § 16A.1245, the prime contractor must pay all subcontractors, less any retainage, within 10 calendar days of the prime contractor's receipt of payment from the State for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one-half percent per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).

**The Minnesota Department of Health must approve all contracts between Minnesota Community Measurement and its subcontractors prior to those subcontractors beginning work. For purposes of subcontracting with the University of Minnesota, the Contractor may use language consistent with the standard state contract with the University of Minnesota. The state's standard contract language with the University of Minnesota is included as a reference in Exhibit B.**

**16 Termination**

**16.1 Termination by the State.** The State or commissioner of Administration may cancel this contract at any time, with or without cause, upon 30 days' written notice to the Contractor. Upon termination, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

**16.2 Termination for Insufficient Funding.** The State may immediately terminate this contract 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 Contractor. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Contractor notice of the lack of funding within a reasonable time of the State's receiving that notice.

**17 Minn. Stat. § 181.59**

The vendor will comply with the provisions of Minn. Stat. § 181.59 which requires:

Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the contractor agrees: (1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; (2) That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color; (3) That a violation of this section is a misdemeanor; and (4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

**19 Foreign Outsourcing**

Contractor agrees that the disclosures and certifications made in its Location of Service Disclosure and Certification Form submitted with its proposal are true, accurate and incorporated into this contract by reference.

**20 Employee Status**

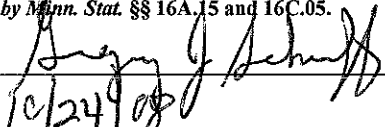
By order of the Governor's Executive Order 08-01, if this contract, including any extension options, is or could be in excess of \$50,000, Contractor certifies that it and its subcontractors:

1. Comply with the Immigration Reform and Control Act of 1986 (U.S.C. 1101 et. seq.) in relation to all employees performing work in the United States and do not knowingly employ persons in violation of the United States' immigrations laws; and
2. By the date of the performance of services under this contract, Contractor and all its subcontractors have implemented or are in the process of implementing the *E-Verify* program for all newly hired employees in the United States who will perform work on behalf of the State of Minnesota.

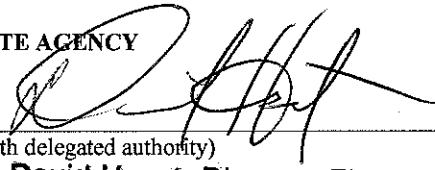
Contractor shall obtain certifications of compliance with this section from all subcontractors who will participate in the performance of this contract. Subcontractor certifications shall be maintained by Contractor and made available to the state upon request. If Contractor or its subcontractors are not in compliance with 1 or 2 above or have not begun or implemented the *E-Verify* program for all newly hired employees performing work under the contract, the state reserves the right to determine what action it may take including but not limited to, cancelling the contract and/or suspending or debaring the contractor from state purchasing.

**1. STATE ENCUMBRANCE VERIFICATION**

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

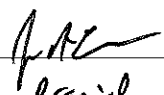
Signed:   
 Date: 10/24/08  
 CFMS Contract No. A- B21755

**3. STATE AGENCY**

By:   
 (with delegated authority)  
 Title: **David Hovet, Director, Fin. & Fac. Mgmt.**  
 Date: 10/24/08

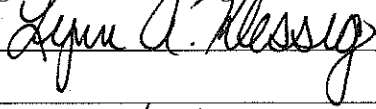
**2. CONTRACTOR**

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

By:   
 Title: President MUCM  
 Date: 10/24/08  
 By: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**4. COMMISSIONER OF ADMINISTRATION**

*As delegated to Materials Management Division*

By:   
 Title: \_\_\_\_\_  
 Date: 10/28/08  
 By: \_\_\_\_\_  
 Date: \_\_\_\_\_

Distribution:  
 Agency  
 Contractor  
 State's Authorized Representative - Photo Copy

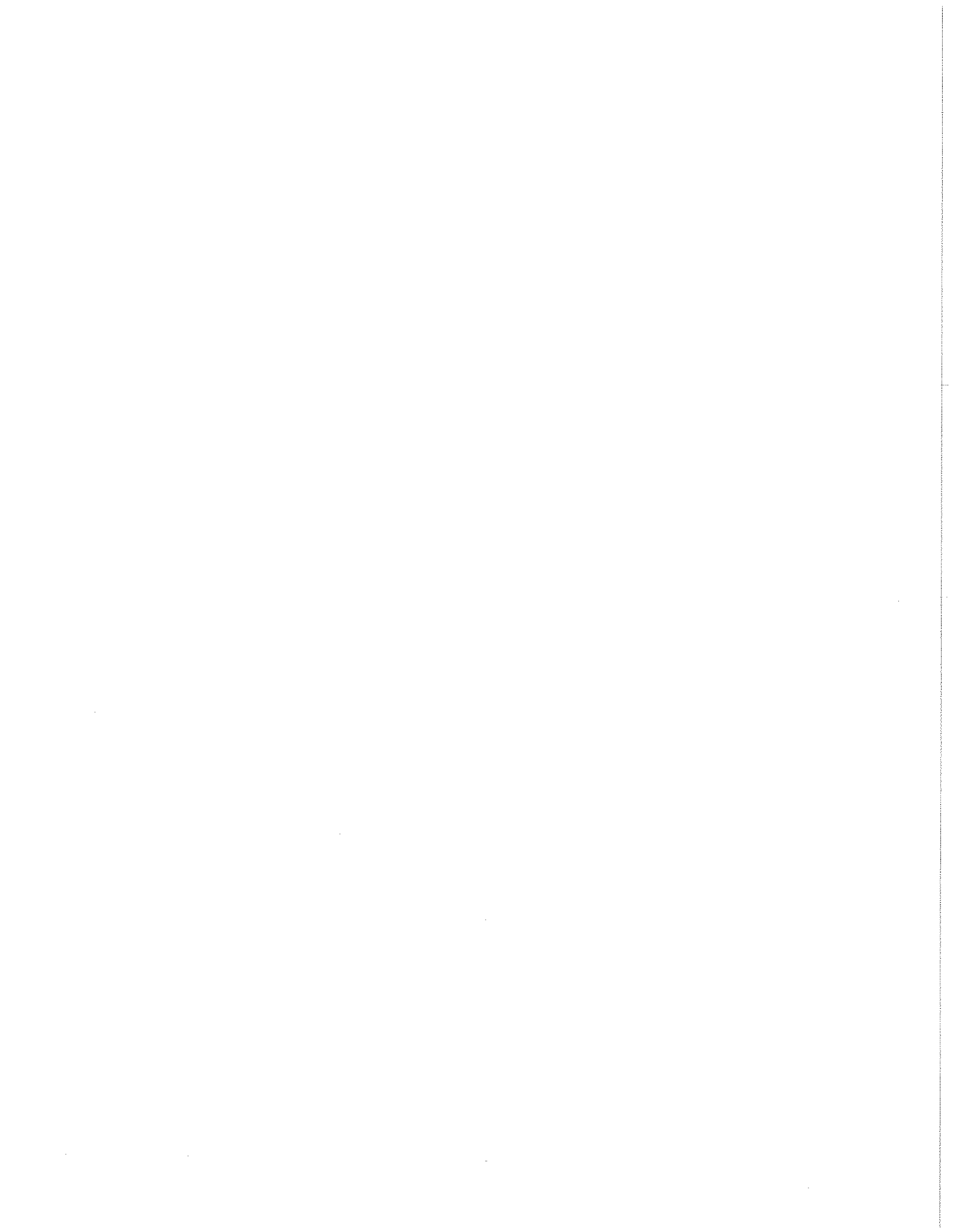
**EXHIBIT A**

Project Management	\$24,000
Other staff	\$4,000
Travel costs associated with one meeting Outside Twin Cities	<u>\$402</u>
Subtotal, MN Community Measurement	\$28,402

Estimated value of subcontracts

Stratis Health	\$20,000
MMA	\$8,000
University of Minnesota	\$22,400
Minnesota Hospital Association	<u>\$12,000</u>
Subtotal, subcontracts	\$62,400

Total	\$90,802
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STATE OF MINNESOTA  
PROFESSIONAL SERVICES CONTRACT  
WITH THE UNIVERSITY OF MINNESOTA

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Processing Information: (Some entries may not apply.)

Begin Date: \_\_\_\_\_ End Date: \_\_\_\_\_

Contractor: University of Minnesota  
Office of Sponsored Projects Administration  
450 University Gateway  
200 Oak Street SE  
Minneapolis, MN 55455-2070

Federal Employer I.D. No. 416007513 Minnesota Tax I.D. No. 8029894

Department: \_\_\_\_\_

Principal Investigator: \_\_\_\_\_

Phone Number: \_\_\_\_\_

This Contract, and amendments and supplements thereto, subject to the laws of Minnesota, is between the State of Minnesota, acting through its \_\_\_\_\_ (hereinafter "STATE"), and the University of Minnesota, by and through the Office of Sponsored Projects Administration, 450 University Gateway, 200 Oak Street SE, Minneapolis, MN 55455-2070, (hereinafter "UNIVERSITY").

WHEREAS, the STATE, pursuant to Minn. Stat. §15.061 is empowered to engage such assistance as deemed necessary, and \_\_\_\_\_, and

WHEREAS, the STATE, is in need of \_\_\_\_\_,

\_\_\_\_\_, and  
WHEREAS, the UNIVERSITY, represents that it is authorized, qualified and willing to perform these services.

NOW, THEREFORE, it is agreed by the STATE and the UNIVERSITY as follows:

I. UNIVERSITY'S DUTIES: The UNIVERSITY shall perform the professional or technical services described in the "CONTRACTOR'S DUTIES," which is attached and incorporated herein as **Attachment A** and made a part of this Contract.

II. CONSIDERATION AND TERMS OF PAYMENT:

A. CONSIDERATION: The consideration for all services performed by the UNIVERSITY pursuant to this Contract shall be paid by the STATE as follows:

1. COMPENSATION: Compensation in an amount not to exceed \$ \_\_\_\_\_, which shall be paid in accordance with the itemization described in the Itemized Budget, that is approved by the STATE, which is attached and incorporated herein as **Attachment B** and made a part of this Contract.

2. REIMBURSEMENT: Reimbursement for travel and subsistence expenses actually and necessarily incurred by the UNIVERSITY in performance of this Contract in an amount not to exceed \$ \_\_\_\_\_.

The UNIVERSITY shall be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the current University of Minnesota Travel Policy and Rate Plan.

THE TOTAL OBLIGATION OF THE STATE FOR ALL COMPENSATION AND REIMBURSEMENTS TO THE UNIVERSITY SHALL NOT EXCEED: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

B. TERMS OF PAYMENT:

1. INVOICE: Payments shall be made by the STATE after the UNIVERSITY'S presentation of invoices for services performed and the written acceptance of such services by the STATE'S Authorized Representative pursuant to Clause VII. Invoices shall be submitted timely and in a form prescribed by the STATE and according to the following schedule:

2. RETAINAGE: In accordance with Minn. Stat. § 16C.08, Subd. 5(b), no more than ninety percent (90%) of the amount due under this Contract may be paid until the final product has been reviewed by the chief executive of the agency entering into the contract, and the chief executive has certified that the UNIVERSITY has satisfactorily fulfilled the terms of the Contract.

3. FEDERAL FUNDS: (When applicable.) Payments are to be made from federal funds obtained by the STATE through Title \_\_\_\_\_ CFDA number. If at any time such funds become unavailable, this Contract shall be terminated immediately upon written notice of such fact by the STATE to the UNIVERSITY. In the event of such termination, the UNIVERSITY shall be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that federal funds are available. The UNIVERSITY is responsible for compliance with all federal requirements imposed on these funds. The UNIVERSITY accepts full financial responsibility for any reimbursement imposed by the UNIVERSITY'S failure to comply with federal requirements.

III. TIMELINESS: The UNIVERSITY shall comply with all of the time requirements described in this Contract.

IV. CONDITIONS OF PAYMENT: All services provided by the UNIVERSITY pursuant to this Contract shall be performed to the satisfaction of the STATE, as determined at the sole discretion of the STATE'S Authorized Representative, and in accordance with all applicable federal, state, and local laws, ordinances, rules and regulations. The UNIVERSITY shall not receive payment for work found by the STATE to be untimely or unsatisfactory, or performed in violation of federal, state or local law, ordinance, rule or regulation.

V. TERM OF CONTRACT: This Contract shall be effective on \_\_\_\_\_ or upon the date that the final required signature is obtained by the STATE, pursuant to Minn. Stat. § 16C.05, subd. 2, whichever occurs later, and shall remain in effect until \_\_\_\_\_, or until all obligations set forth in this Contract have been satisfactorily fulfilled, or the Contract has been canceled, whichever occurs first. The UNIVERSITY shall have a continuing obligation, after said Contract period, to comply with the following provisions of Contract clauses: X. Liability; XI. State Audits; XII. Government Data Practices Act; XIII. Intellectual Property Rights; XIV. Publicity; and XVIII. Jurisdiction and Venue. THE UNIVERSITY UNDERSTANDS THAT NO WORK SHOULD BEGIN UNDER THIS CONTRACT UNTIL ALL REQUIRED SIGNATURES HAVE BEEN OBTAINED AND THE UNIVERSITY'S AUTHORIZED REPRESENTATIVE IS NOTIFIED TO BEGIN WORK BY THE STATE'S AUTHORIZED REPRESENTATIVE.

VI. CANCELLATION: This Contract may be canceled by the STATE, UNIVERSITY, or the Commissioner of Administration, at any time, with or without cause, upon thirty (30) days' written notice to the UNIVERSITY. In the event of cancellation, the UNIVERSITY shall be entitled to payment, determined on a pro rata basis, for work or services satisfactorily performed.

VII. AUTHORIZED REPRESENTATIVES, PRINCIPAL INVESTIGATOR, AND KEY PERSONNEL:

A. STATE'S AUTHORIZED REPRESENTATIVE: The STATE'S Authorized Representative responsible for the administration and supervision of this Contract is \_\_\_\_\_, who is authorized to accept the UNIVERSITY'S services, if such services are timely and satisfactory, and to certify said acceptance on each invoice submitted.

B. UNIVERSITY'S AUTHORIZED REPRESENTATIVE: The UNIVERSITY'S Authorized Representative responsible for the administration of this Contract is \_\_\_\_\_. The UNIVERSITY'S Authorized Representative shall have full authority to represent the UNIVERSITY in its fulfillment of the terms, conditions, and requirements of this Contract.

C. PRINCIPAL INVESTIGATOR AND KEY PERSONNEL: The UNIVERSITY'S Principal Investigator for this Contract is \_\_\_\_\_. The UNIVERSITY'S Key Personnel required for this Contract shall be: \_\_\_\_\_. The UNIVERSITY shall not add, replace, remove, or substitute the named principal investigator or the key personnel, if named, without the prior written approval of the STATE.

VIII. ASSIGNMENT: The UNIVERSITY shall not assign, delegate, or transfer any rights or obligations under this Contract without the prior written consent of the STATE.

IX. AMENDMENTS: Any amendments or modifications to this Contract shall be in writing and shall not be effective until executed by the parties to this Contract and approved by all STATE officials as required by law.

X. LIABILITY: Each party shall be responsible for claims, losses, damages and expenses which are proximately caused by the wrongful or negligent acts or omissions of that party or its agents, employees or representatives acting within the scope of their duties. The liability of each party is as set out in chapter 3.736 of the Minnesota Statutes and subject to the limitations therein. Nothing herein shall be construed to limit either party from asserting against third parties any defenses or immunities (including common law, statutory and constitutional) it may have or be construed to create a basis for a claim or suit when none would otherwise exist. This provision shall survive the termination of this Agreement.

XI. STATE AUDITS: The books, records, documents, and accounting procedures and practices of the UNIVERSITY and its employees, agents, and subcontractors, relevant to this Contract, shall be made available and subject to examination by the STATE, including the Contracting Agency/Department, Legislative Auditor, and State Auditor, for a minimum of six years from the end of the contract.

XII. GOVERNMENT DATA PRACTICES ACT: The CONTRACTOR must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the STATE in accordance with this Contract, and as

it applies to all data, collected, received, stored, used, maintained, or disseminated by the CONTRACTOR in accordance with this Contract. The civil remedies of Minnesota Statutes Section 13.08, apply to the release of the data referred to in this Article by either the CONTRACTOR or the STATE.

In the event the CONTRACTOR receives a request to release the data referred to in this Article, the CONTRACTOR must immediately notify the STATE. The STATE will give the CONTRACTOR instructions concerning the release of the data to the requesting party before the data is released.

XIII. INTELLECTUAL PROPERTY RIGHTS – Joint ownership of Intellectual Property Rights:

A. INTELLECTUAL PROPERTY RIGHTS: All rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the WORKS and DOCUMENTS, shall be jointly owned by the UNIVERSITY and the STATE.. WORKS shall mean all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks or other materials whether intangible or electronic forms, prepared by the UNIVERSITY, its employees, and subcontractors, either individually or jointly with others in the performance of this Contract. DOCUMENTS shall mean the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether intangible or electronic forms, prepared by the UNIVERSITY, its employees, or subcontractors, in the performance of this Contract. The ownership interests of the State and the University in the WORKS and DOCUMENTS shall equal the ratio of each party's contributions to the total described in the budget of this Contract, except that the STATE'S ownership interests in the WORKS and DOCUMENTS shall be not be less than 50 percent (50%). The party's ownership interesting the WORKS and DOCUMENTS shall not be reduced by any royalties or revenues received from the sale of the products or the licensing or other activities arising from the use of the WORKS and DOCUMENTS. Each party hereto shall, at the request of the other, execute all papers and perform all other acts necessary to transfer or record the appropriate ownership interests in the WORKS and DOCUMENTS.

B. OBLIGATIONS:

1. NOTIFICATION: Whenever any invention, improvement or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the UNIVERSITY, including its employees and contractors, in the performance of this Contract, the UNIVERSITY shall immediately give the STATE'S Authorized Representative written notice thereof, and shall promptly furnish the Authorized Representative with complete information and/or disclosure thereon. All decisions regarding the filing of patent, copyright, trademark or service mark applications and/or registrations shall be the joint decision of the UNIVERSITY and the STATE, and the costs for such applications shall be divided as agreed by the parties at the time of the filing decisions. In the event the parties cannot agree on said filing decisions, the filing decision will be made by the STATE.
2. REPRESENTATION: The UNIVERSITY shall perform all acts, and take all steps necessary to ensure that all intellectual property rights in the WORKS and DOCUMENTS are the sole property of the UNIVERSITY and the STATE as agreed herein, , and that no UNIVERSITY employee, agent, or contractor retains any interest in and to the WORKS and DOCUMENTS. The UNIVERSITY represents and warrants that the WORKS and DOCUMENTS do not and shall not infringe upon any intellectual property rights of others. The UNIVERSITY shall indemnify, defend, and hold harmless the STATE, at the UNIVERSITY'S expense, from any action or claim brought against the STATE to the extent that it is based on a claim that all or parts of the WORKS or DOCUMENTS infringe upon the intellectual property rights of others. The UNIVERSITY shall be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages including, but not limited to, attorney fees. If such a claim or action arises, or in the UNIVERSITY'S or the STATE'S opinion is likely to arise, the UNIVERSITY shall, at the STATE'S discretion, either procure for the STATE the right or license to use the intellectual property rights at issue or to replace or modify the allegedly infringing WORKS or DOCUMENTS as necessary and appropriate to obviate the infringement claim. This remedy of the STATE shall be in addition to and not exclusive of other remedies provided by law.

C. USES OF THE WORKS AND DOCUMENTS: The STATE and UNIVERSITY shall joint have the right to make, have made, reproduce, modify, distribute, perform, and otherwise use the WORKS, including DOCUMENTS produced under this Contract, for noncommercial research, scholarly work, government purposes, and other noncommercial purposes without payment or accounting to the other party. No commercial development, manufacture, marketing, reproduction, distribution, sales or licensing of the WORKS, including DOCUMENTS shall be authorized without a future written contractual agreement between the parties.

D. POSSESSION OF DOCUMENTS: The DOCUMENTS may remain in the possession of the UNIVERSITY. The STATE may inspect any of the DOCUMENTS at any reasonable time. The UNIVERSITY shall provide a copy of the DOCUMENTS to the STATE without cost upon the request of the STATE.

E. SURVIVABILITY: The rights and duties of the STATE and the UNIVERSITY provided for above shall survive the expiration or cancellation of this Contract.

XIV. PUBLICITY: Any publicity given to the program, publications, or services provided resulting from this Contract, including, but not limited to, notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the UNIVERSITY or its employees individually or jointly with others or any subcontractors, shall identify the STATE as the sponsoring agency. Publication of methods and results derived from this project in theses, academic or professional journals or their presentation at symposia or scholarly meetings is hereby authorized, provided they contain the required acknowledgement of state support and necessary steps have been taken to protect copyright and other intellectual property rights resulting from the project.

XV. AFFIRMATIVE ACTION: (When applicable.) The UNIVERSITY certifies that it has a valid and current certificate of compliance from the commissioner of Human Rights pursuant to Minn. Stat. § 363.073.

XVI. WORKERS' COMPENSATION: In accordance with the provisions of Minn. Stat. § 176.182, the UNIVERSITY shall provide acceptable evidence of compliance with the workers' compensation insurance coverage requirement of Minn. Stat. § 176.181, subd. 2, as amended, prior to the commencement of any duties to be performed under this Contract.

XVII. PROMPT PAYMENT TO SUBCONTRACTORS: (When applicable.) Prime contractors are required to pay subcontractors pursuant to Minn. Stat. § 16A.1245.

XVIII. JURISDICTION AND VENUE: This Contract shall be governed by the laws of the State of Minnesota. Venue for all legal proceedings arising out of this Contract, or breach thereof, shall be in the state or federal court with competent jurisdiction in Ramsey County, Minnesota.

XIX. COMPLETE CONTRACT: This Contract, and amendments and supplements, constitutes the entire agreement between the parties.

XX. OTHER PROVISIONS: (Attach additional pages as necessary and incorporate by reference here.) Otherwise "none."

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.