

**STATE OF MINNESOTA
GRANT CONTRACT**

**DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT
BUSINESS AND COMMUNITY DEVELOPMENT DIVISION**

Minnesota Investment Fund Program Grant Contract
West St. Paul Economic Development Authority
The Tapemark Company
CDAP-14-0017-H-Y15
\$500,000

This grant contract is between the State of Minnesota, acting through the Department of Employment and Economic Development, Business and Community Development Division, (“STATE”) and the **West St. Paul Economic Development Authority**, (“GRANTEE”), **1616 Humboldt Avenue, West St. Paul, MN 55118.**

Recitals

1. Under Minn. Stat. §§ 116J.035 and 116J.8731, Minnesota Investment Fund, the State is empowered to enter into this grant.
2. The State is in need of local units of government to administer projects in accordance with Minn. Stat. § 116J.8731 Minnesota Investment Fund; Minnesota Rules Chapter 4300; and policies and procedures developed by the State.
3. The Grantee represents that it is duly qualified and agrees to perform all services described in this grant contract to the satisfaction of the State. If administrative costs are eligible under this grant then pursuant to Minn. Stat. §16B.98, subdivision 1, the Grantee agrees to minimize administrative costs as a condition of this grant.

Grant Contract

1. Term of Grant Contract

1.1 **Effective date:** **October 7, 2014**

Per Minnesota Statute § 16B.98 subd.5 and Minnesota Statute § 16B.98 Subd. 7, no payments will be made to the Grantee until this grant contract is fully executed.

1.2 **Benefit Date:** **June 30, 1015**

1.3 **Compliance Date:** **June 30, 2017**

1.4 **Expiration Date:** **September 30, 2017**

1.5 **Survival of Terms.** The following clauses survive the expiration or cancellation of this grant contract:

8. Liability; 9. State Audits; 10. Government Data Practices; 12. Publicity and Endorsement; 13. Governing Law, Jurisdiction, and Venue; 15. Data Disclosure; and Exhibit A.4. Repayments.

2. Grantee’s Duties

2.1 **Duties.** The Grantee, who is not a state employee, will: Perform the duties specified in Exhibit A which is attached and incorporated into this grant contract.

2.2 The Grantee has made application (“APPLICATION”) to the State for the purpose of providing a loan to **The Tapemark Company**, (“BORROWER”) in the manner described in the application which is incorporated into this contract by reference.

2.3

Provisions for Contracts and Sub-grants.

a. ***Contract Provisions.*** The Grantee must include in any contract and sub-grant, including the loan agreement with the Borrower, in addition to provisions that define a sound and complete agreement, such provisions that require contractors, sub-grantees and the Borrower to comply with applicable state and federal laws.

b. ***Payment of Contractors and Subcontractors.*** The Grantee must ensure that all contractors and subcontractors performing work covered by this grant are paid for their work that is satisfactorily completed.

3. Time

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

4. Consideration and Payment

4.1 ***Consideration.*** The State will pay the Grantee under this grant contract as follows:

a. ***Compensation.*** The Grantee will be reimbursed according to the approved Budget contained in Exhibit B, which is attached and incorporated into the Grant Contract section of this grant contract.

b. ***Total Obligation.*** The total obligation of the State for all compensation and reimbursements to the Grantee under this grant contract will not exceed \$500,000.

4.2. ***Payment.***

a. ***Invoices.*** The State will disburse funds to the Grantee pursuant to this Contract, based upon payment requests submitted by the grant and reviewed and approved by the State. Payment requests must be accompanied by supporting invoices that relate to the activities in the approved budget and the documentation detailed in Section 4.2.b. of this grant contract. The State will provide payment request forms.

If the Grantee has received invoices from the Borrower for expenditures made after the effective date of this contract but before the grant is closed or until all funds are disbursed, whichever is earlier, the Grantee shall submit those invoices to the State for review and approval no later than 25 days after the end date of the state fiscal year of June 30th. To ensure that all funds are drawn by the expiration date of the grant, all Grantee payment requests must be received by the State at least 30 days prior to the Expiration Date.

b. ***Documentation.*** The following information must be submitted and approved by the State before funds will be released:

- 1) Minnesota Investment Fund loan agreement, promissory note, amortization schedule, personal guaranty and evidence of security filings.
- 2) Documentation that equity, in the amount of \$3,253,805.00, has either already been injected into this project or is on account and available to complete the project.
- 3) Invoices for equipment costs.
- 4) Financing in the amount of \$450,000.00 is secured and available for disbursement for this project.

c. ***Eligible Costs.*** Eligible costs include the costs identified in Exhibit B of this Contract that are incurred during the contract period.

5. Conditions of Payment

All services provided by the Grantee under this grant 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 Grantee will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

The State will not authorize disbursement of funds if there has been any adverse change in the Borrower's financial condition, organization, operations or their ability to repay the project financing.

6. Authorized Representative

The State's Authorized Representative is [Jordan Zeller](#), Senior Loan Officer, 1st National Bank Building, 332 Minnesota Street, E200, St. Paul, MN 55101, 651-259-7426, Jordan.zeller@state.mn.us, or his successor, and has the responsibility to monitor the Grantee's performance and the authority to accept the services provided under this grant contract. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each payment request form submitted for payment.

The Grantee's Authorized Representative is [Jim Hartshorn, Community Development Director, 1616 Humboldt Avenue, West St. Paul, MN 55118, 651-552-4100, \[jhartshorn@wspmn.gov\]\(mailto:jhartshorn@wspmn.gov\)](#). If the Grantee's Authorized Representative changes at any time during this grant contract, the Grantee must immediately notify the State.

7. Assignment, Amendments, Waiver, and Grant Contract Complete

7.1 **Assignment.** The Grantee shall neither assign nor transfer any rights or obligations under this grant contract without the prior written consent of the State, approved by the same parties who executed and approved this grant contract, or their successors in office.

7.2 **Amendments.** Any amendments to this grant 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 grant contract, or their successors in office.

7.3 **Waiver.** If the State fails to enforce any provision of this grant contract, that failure does not waive the provision or the State's right to enforce it.

7.4 **Grant Contract Complete.** This grant contract contains all negotiations and agreements between the State and the Grantee. No other understanding regarding this grant contract, whether written or oral, may be used to bind either party. Where provisions of the Application are inconsistent with other provisions of this contract, the other provisions of this Contract will take precedence over the provisions of the Application.

8. Liability

Subject to the provisions and limitations of Minn. Stat. §466, the Grantee 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 grant contract by the Grantee or the Grantee's agents or employees. This clause will not be construed to bar any legal remedies the Grantee may have for the State's failure to fulfill its obligations under this grant contract.

9. State Audits

Under Minn. Stat. §16B.98, subd.8, the Grantee's books, records, documents, and accounting procedures and practices of the Grantee or other party relevant to this grant contract or transaction are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six (6) years from the end of this grant contract, receipt and approval of all final reports, date of the final repayment to the State, or the required period of time to satisfy all state and program retention requirements, whichever is later.

10. Government Data Practices

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

If the Grantee receives a request to release the data referred to in this Clause, the Grantee must immediately notify the State. The State will give the Grantee instructions concerning the release of the data to the requesting party before the data is released. The Grantee's response to the request shall comply with applicable law.

11. Workers' Compensation

The Grantee certifies that it is in compliance with Minn. Stat. § 176.181, subd. 2, pertaining to workers' compensation

insurance coverage. The Grantee'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 and any claims made by any third party as a consequence of any act or omission on the part of these employees 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 grant contract must identify the State as the sponsoring agency. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Grantee individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this grant contract.

12.2 **Endorsement.** The Grantee and the Borrower 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 grant contract. Venue for all legal proceedings out of this grant contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

14. Termination

14.1 **Termination by the State.** The State may immediately terminate this grant contract with or without cause, upon 30 days' written notice to the Grantee. Upon termination, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

14.2 **Termination for Cause.** The State may immediately terminate this grant contract if the State finds that there has been a failure to comply with the provisions of this grant contract, that reasonable progress has not been made or that the purposes for which the funds were granted have not been or will not be fulfilled. The State may take action to protect the interests of the State of Minnesota, including the refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed.

14.3 **Termination for Insufficient Funding.** The State may immediately terminate this grant contract if:

a. It does not obtain funding from the Minnesota Legislature; or

b. 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 Grantee. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Grantee 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 Grantee notice of the lack of funding within a reasonable time of the State's receiving that notice.

15. Data Disclosure

Under Minn. Stat. § 270C.65, subd. 3, and other applicable law, the Grantee 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 tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Grantee to file state tax returns and pay delinquent state tax liabilities, if any.

Other Provisions

16. Affirmative Action

The Grantee is encouraged to prepare and implement an affirmative action plan for the employment of minority persons, women, and the qualified disabled and submit the plan to the Commissioner of Human Rights as required by Minn. Stat. § 363A.36.

17. Conflict of Interest

The Grantee shall comply with the Conflict of Interest provisions of Minn. Stat. §§ 471.87 and 471.88.

18. Successors and Assignees

This contract shall be binding upon any successors or assignees of the parties.

19. Minnesota Business Subsidy Law

The Grantee must comply, if appropriate, with the Minnesota Business Subsidy Law, Minn. Stat. § §116J.993-116J.995.

20. Debarment and Suspension Certification (if applicable)

The Grantee agrees to follow the President’s Executive Order 12549 and the implementing regulation “Non-procurement Debarment and Suspension: Notice and Final Rule and Interim Rule,” found at 53 FR 19189, May 26, 1988, as amended at 60 FR 33041, June 26, 1995, including Appendix B, “Certification Regarding the Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions;” unless excluded by law or regulation.

1. STATE ENCUMBRANCE VERIFICATION

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

Signed: _____

Date: _____

SWIFT Contract/PO No(s)

3. STATE AGENCY

By: _____

(with delegated authority)

Title: _____

Date: _____

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: _____

Date: _____

Distribution:
Agency
Grantee

**EXHIBIT A
GRANTEE'S DUTIES**

The Grantee, who is not a state employee, will

1. Administer the project in accordance with the requirements of the Minnesota Investment Fund program, Minn. Stat. § 116J.8731; Minn. Rules, Chapter 4300; and policies and procedures developed by the State.
2. Enter into a Loan Agreement with the Borrower for \$500,000 and ensure the following conditions are included in such agreement:
 - 2.1. a. Loan Term: **Five (5) years**.
b. Interest Rate: **One percent (1%)**.
c. Collateral: A security interest in the Serpa P150 Intermittent Balcony Cartoner.
d. The Personal Guaranty of **Robert Klas, Sr.** is required.
 - 2.2. Job Creation and Wages:
 - a. The Borrower identified **92** full time equivalent (FTE) base jobs that must be maintained until the Compliance Date.

b. The borrower will create **forty (40)** new permanent full time equivalent (FTE) positions (over and above the existing 92 full time equivalent positions located in Minnesota) at the Borrower's existing facilities located in West St. Paul by the Goal Deadline, all of which shall be at a wage of at least **\$15.47** cash wages per hour (exclusive of Benefits) plus a Benefit package sufficient for these new jobs at a value of at least **\$4.68** per hour. However, whether or not the wages include Benefits, the total compensation package shall be at least **\$20.15** per hour. Benefits are defined as one or more of the following: health, dental, life and disability insurance, retirement program and profit sharing expenses paid by the employer (and not mandated by law).

c. If the Borrower fails to meet the job creation goal and wage level commitment by the Compliance Date, the Grantee may, after holding a public hearing, extend the grant period for one year, after approval from the State. If, after the extension, the Borrower fails to meet the job creation goal and wage level commitment, the Borrower will be required to repay to the Grantee all or a proportional share of the loan funds on an accelerated term. The Grantee will then be required to return to the State all or a proportional share of the funds.
 - 2.3. Loan Forgiveness
If the job creation goals and wage level commitments detailed in Sections 2 a, b and c of this section are met by the Compliance Date, the State and the Grantee will each forgive \$50,000 of the Loan, for a total of \$100,000 of loan forgiveness.

2.4 Payment of Prevailing Wages to Contractors

Minn. Stat. §116J.871, applies if a business receives \$500,000 or more in State funds and the State funds are used for construction, installation (including equipment), remodeling and repairs.

2.5 Surety Deposits Required for Construction Contracts

Minn. Stat. §290.9705, pertains to foreign corporations that perform construction work in Minnesota and applies if State funds are used for construction.

2.6 Job Listing Agreements

Minn. Stat. §116L.66, subd.1, applies when a business or private enterprise receives \$200,000 or more per year in grants or loans from the State. When applicable, the business or private enterprise shall agree to enter into a Job Listing Agreement with the MN Department of Employment and Economic Development, Workforce Center Business Services, to list any vacant or new positions with MinnesotaWorks.net at www.minnesotaworks.net

3. Require the City Attorney to review the loan agreement, promissory note, security agreement, mortgage, guaranty and/or other documents, if any, considered necessary to secure the loan to ensure they are valid, binding and enforceable.

4. Retain 40% of each principal and interest payment made by the Borrower, up to \$50,000 of loan principal. Repay to the State 60% of each principal and interest loan payment made by the Borrower until the Grantee has received \$50,000 of principal payments. Once the Grantee has received \$50,000 of principal, the Grantee will repay to the State 100% of every payment on the loan until paid in full. In the event the loan is not paid in full, principal and interest the Grantee retains will be reduced proportionally.

5. The Grantee will establish and maintain a revolving loan fund (RLF) consistent with the adopted program, as approved by the State. The Grantee must retain financial control and decision making authority regarding the use of the repayments from the loan. However, the Grantee may loan or grant money from its RLF to a regional development commission, other regional entity, or statewide community capital fund to capitalize or to provide the local match required for capitalization of a regional or statewide RLF. The State must provide written approval prior to the release of funds to an organization.

6. Reporting

6.1 Minnesota Investment Fund

a. Submit to the State annual progress reports on forms provided by the State until the project goals are met or until the Compliance Date, whichever is later. These reports must be submitted by the following dates:

- 1) January 25, 2016 for the period ending December 31, 2015; and
- 2) January 25, 2017 for the period ending December 31, 2016; and
- 3) July 25, 2017 for the period ending June 30, 2017.

b. The State, at its discretion, may require the submittal of additional progress reports.

c. Information required in these report include, but is not limited to the following:

- | | | |
|------------------------------------|----------------------------|----------------------|
| - New permanent jobs by job title | - Hourly value of benefits | - Status of payments |
| - Hourly base wage of each new job | - Benefits provided | |
| - Date of hire for each new job | - Project expenditures | |
| - Job titles | - Project status | |

6.2 Minnesota Business Assistance Form

- 1) Submit to the MN Department of Employment and Economic Development, Office of Economic Analysis no later than April 1 of each year until the project goals have been met.

7. Keep financial records, including properly executed contracts, invoices, receipts, vouchers, and other documents sufficient to evidence in proper detail the nature and propriety of the expenditures made pursuant to this contract. Accounting methods must be in accordance with generally accepted accounting principles.

8. Complete the project in accordance with the approved budget within the time frames specified in this grant contract.

9. Promptly notify the State of any proposed material change in the scope of the project, budget or completion date, which must be approved by the State, prior to implementation.

10. Have on file the necessary documentation to show that all project funds have been used for the items stated in the application.

FORM # MN-DEED-AFS-01 | VERSION 4.24.13 **EXHIBIT B**
CONTRACT-ENCUMBRANCE COVERED APPROVED BUDGET



- This form is used to encumber funds for any DEED contracts such as grants and professional/technical contracts. It is to be used for establishing a new contract or an amendment.
- Complete all sections of this form and submit to your AFS Budget Analyst. If you have questions, email your Budget Analyst.
- Budget Analyst will review the SWIFT data and forward to AFS Contract Coordinator for SWIFT data and approval.

1. AFS STAFF USE ONLY:		SWIFT Contract ID:	SWIFT Purchase Order ID:
Site Improvement	Budget Analyst Approval: _____		

4. SECTION 1: RECIPIENT INFORMATION							
Original (Yes/No):	Yes	\$500,000	\$450,000	\$3,253,805.0	Amendment (Yes/No):	No	\$4,203,805.0
Program Contract Number:					DUNS #:		\$0
CDAP:	14-0017-H-FY15						\$0
Name:	City of West St. Paul EDA				SWIFT Vendor ID:		\$0
Address:	1616 Humboldt Avenue				SWIFT Description:		\$0
City, State & Zip:	St. Paul, MN 55118				Total Award Amount:	\$	\$0
Contact Person:	E-mail:				Begin and Expire Dates:	10/07/2014 thru 5/01/2017	\$0
				\$3,253,805.0			\$4,203,805.0
Summary Description (Limit 200 characters): Make a loan to the Targetmark Company to assist with the purchase of equipment for the company's expansion in West St. Paul. IF the job and wage goals are met by the compliance date, \$100,000 of the loan will be forgiven.							

Other Information: _____ Loan Officer _____ Tom _____ Bob _____ Cordella

5. SECTION 2: PREPARED BY	
Name:	Division/Unit: BCD/ Business Finance
Phone:	Origin Number: 205

6. SECTION 3: ACCOUNTING & REPORTING DETAILS	
FY Accounting Date:	Split Funding (Yes/No): No
ChartField 1:	
SpeedChart: B22MIF	Fund: 1000
Fin DeptID:	AppropID: B221150
Account: 441352	Agency Cost 1: 55351
PC Bus Unit: B2202	Project ID:

	Activity ID(s):	Activity Title(s):	Original Amount:	Amended Amount (Increase/Decrease):	Amount(s) Total:
1.	884	MN Investment Fund	\$500,000		\$500,000
2.					
3.					
4.					

5.					
			Total:		\$500,000