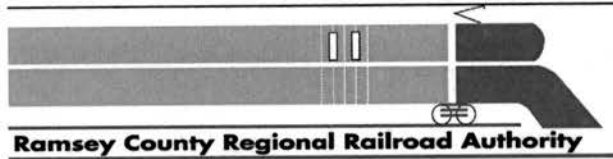




Ramsey County Regional Railroad Authority.
Records.

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6560 Ramsey County Government Center West
50 Kellogg Boulevard West
St. Paul, Minnesota 55102 (651) 266-2760

REGIONAL RAILROAD AUTHORITY MEETING AGENDA

September 21, 2010

Immediately following the County Board Meeting
Council Chambers - Third Floor Court House

.....
ROLL CALL and Call to Order

AGENDA of the September 21, 2010 Board Meeting is presented for approval.

MINUTES of the September 7, 2010 Board Meeting is presented for approval.

ADMINISTRATIVE AGENDA

1. Resolution supporting Washington County's application to the Counties Transit Improvement Board

Board Action Requested:

Support Washington County's application to the Counties Transit Improvement Board for grants payable in 2011 in the amount of \$107,000 to serve as a local matching grant to federal funds for the Red Rock Corridor Station Area Planning Study.

2. Amended and Restated Gateway (I-94) Corridor Joint Powers Agreement

Action Requested:

- 1) Approve the amended and restated Gateway (I-94) Corridor Joint Powers Agreement.
- 2) Authorize the Chair and Chief Clerk to execute the amended and restated Gateway (I-94) Joint Powers Agreement.

3. Union Depot Multi-Modal Transit Hub Project: Phase II Construction Manager at Risk Services

Board Action Requested:

- 1) Accept and approve the updated Union Depot Multi-Modal Transit Hub budget, schedule and financing plan.
- 2) Approve a Part 2 Agreement with Mortenson Construction for Phase II Construction Manager at Risk services for the project with a Project Gross Maximum Price of \$148,753,916.
- 3) Authorize the Chair of the RCRRA to execute a Part 2 Agreement with Mortenson Construction for Phase II Construction Manager at Risk Services for the project, subject to approval by the County Attorney's office and the Directors of RCRRA and Property Management

CORRIDOR UPDATES

ADJOURNMENT

RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY

September 7, 2010

The Ramsey County Regional Railroad Authority met with the following members present: Bennett, Carter, Ortega, Parker, Reinhardt, Rettman, McDonough – 7. Absent: 0. Also present were Julie Kleinschmidt, County Manager, and Darwin Lookingbill, Director, Civil Division, County Attorney's Office.

Chair McDonough called the meeting to order at 10:43 a.m.

AGENDA

Commissioner Ortega moved approval of the Agenda of the September 7, 2010 Board Meeting, seconded by Commissioner Reinhardt. Roll Call: Ayes – Rettman, Bennett, Carter, Ortega, Parker, Reinhardt, McDonough – 7. Nays – 0.

MINUTES

Commissioner Carter moved approval of the Minutes of the August 17, 2010 Board Meeting, seconded by Commissioner Reinhardt. Roll Call: Ayes – Rettman, Bennett, Carter, Ortega, Parker, Reinhardt, McDonough – 7. Nays – 0.

1. Resolution supporting the submittal of the Metropolitan Council application for Counties Transit Improvement Board funding for the Central Corridor Light Rail Project

Commissioner Reinhardt moved approval of the following resolution, seconded by Commissioner Ortega. Roll Call: Ayes – Rettman, Bennett, Carter, Ortega, Parker, Reinhardt, McDonough – 7. Nays – 0. (R10-43)

WHEREAS, The Ramsey County Regional Railroad Authority (RCRRA) has supported the Central Corridor Light Rail Transit (CCLRT) Project through Alternatives Analysis, preliminary and final design and advance construction; and

WHEREAS, The Counties Transit Improvement Board (CTIB) has provided capital grants to CCLRT in excess of \$79 million since its inception; and

WHEREAS, The Metropolitan Council is the project sponsor responsible for delivering CCLRT on budget and on schedule, and

WHEREAS, The Metropolitan Council intends to submit a capital grant application to CTIB for 2011 for \$106.7 million to advance CCLRT, Now, Therefore Be It

RESOLVED, That the Ramsey County Regional Railroad Authority supports the submittal of a 2011 application by the Metropolitan Council to CTIB for Central Corridor LRT for \$106.7 million.

2. Certify maximum levy for Ramsey County Regional Railroad Authority in the amount of \$19,938,811 for 2011.

Chair McDonough explained that a revised resolution was being proposed for approval. It contained new language to reflect the certification of the levy. Commissioner Parker moved approval of the revised resolution, seconded by Commissioner Reinhardt. Roll Call: Ayes – Rettman, Bennett, Carter, Ortega, Parker, Reinhardt, McDonough – 7. Nays – 0. (R10-44)

WHEREAS, The Truth in Taxation Law (M.S. 275.065) requires the Ramsey County Regional Railroad Authority to certify a proposed maximum tax levy to the Property Records and Revenue Department (County Auditor) by September 15, 2010; and

WHEREAS, The Certified Proposed Maximum Tax Levy will be the amount that is used for the Truth in Taxation notices that will be mailed to each property owner in the County after November 10, 2010, but no later than November 24, 2010; and

WHEREAS, The Truth in Taxation Law includes a provision that the approved tax levy for the 2011 budget cannot be more than the proposed tax levy certified by the Ramsey County Regional Railroad Authority by September 7, 2010; and

WHEREAS, In order to continue to improve the quality of life and access to services in the region, to remain a partner in transit activities in the region with other agencies, including the Minnesota Department of Transportation, the seven metro county Regional Railroad Authorities, Metropolitan Council and Metro Transit; Now, Therefore Be It

RESOLVED, That the Ramsey County Regional Railroad Authority hereby approves the proposed maximum tax levy of \$19,938,811 to finance the 2011 Ramsey County Regional Railroad Authority Budget, which in accordance with the Truth in Taxation Law, must be certified to the Department of Property Records and Revenue by September 15, 2010.

3. 2011 RCRRA Supplemental Budget

Chair McDonough reminded that this item was on the agenda for the previous Ramsey County Regional Railroad Authority (RCRRA) meeting but was moved to this meeting to allow more time for the presentation and discussion.

Tim Mayasich, Director, RCRRA, presented the board with the 2011 RCRRA supplemental budget:

One of Ramsey County's goals "is to promote multi-modal transit and transportation solutions that effectively serve our citizens". The Critical Success Indicator of the Rail Authority is: "A variety of safe and effective transportation options benefit the community." Historically, the Rail Authority's role in project development has been planning based. The performance measures noted are more of milestones than true quantitative measures. Our performance measures indicate that our projects are advancing through the project development process. The Rail Authority's Union Depot renovation and reconstruction project will provide various transportation alternatives for the region and the state. It also will benefit the community by easing congestion and bringing new economic development opportunities and jobs to the area. The Union Depot project is planned for a 2012 unveiling and is currently on budget and on schedule. Property acquisition has been completed and final possession of the Post Office property is anticipated by December 2010. Phase 1 Design work will be completed soon and Phase 2 Construction is anticipated to begin in the fall 2010.

The Central Corridor light rail transit project is also progressing on time and on budget. The success of this project will also ease congestion and bring economic development opportunities and jobs to the area. The project completed preliminary engineering this year and has moved into final design. Early construction work began in the fall of 2009. Full construction began this summer and will be completed in 2014. Other corridor projects such as I-94 (Gateway Corridor), Red Rock, Rush Line, Robert Street, Intercity Passenger Rail (High Speed Rail), and Riverview are moving ahead. Each corridor is at a different phase of the project development process.

It is anticipated that the Rail Authority's long-term capital financing plan will continue with the 2012-2013 budget. The Union Depot project cost is projected at \$237.5 million dollars. The 2010-2011 budgets and prior years' budgets included all spending authorities needed to complete the project. Those budgets were based on the Rail Authority obtaining a percentage of federal and state funding to help finance the project. While not all federal and state funding has been realized, additional federal, state, and local funds are being pursued to complete the financing package. A financing plan for this project is anticipated to be presented to the Rail Authority in September, 2010. The Rail Authority obligation for

the Central Corridor light rail project is approximately \$67 million dollars. The Rail Authority will continue its planned appropriations to the Central Corridor project in the 2012-2013 budgets. Funding from federal, state, and local partners will also be pursued for Rail Authority's other corridor projects.

Commissioner Rettman asked about the status of the full funding grant agreement for the Central Corridor.

Mr. Mayasich responded that the last they heard from Chairman Bell of the Metropolitan Council was that the full funding grant agreement would be received from the Federal Rail Administration (FRA) in January or February of 2011.

Chair McDonough said of the full funding grant agreement could be received late 2010 but confirmed that the date continues to be a moving target.

Commissioner Carter asked if we will still be able to move the project forward in order to stay on schedule with the required work agreements with the delay of the full funding agreement.

Chair McDonough said the project timeline has not been delayed and work has been able to proceed because of the Federal Transit Administration's (FTA) awarding of the Letters of No Prejudice and the commitments we have made locally at the County and the Counties Transit Improvement Board (CTIB).

Commissioner Bennett wanted to know what will remain of the postal service once we take possession of the property. He also asked if we will still be required to supply the agreed designated parking spaces under the Depot once the postal services are transferred.

Steve Morris, Transit Project Manager, RCRRA, added that the purchase agreement requires RCRRA to provide some parking under the train deck because the post office intends to keep some retail operations in the post office building. We have not been told that they will still need the parking spaces when the services are transferred to Eagan.

Chair McDonough clarified that if we had included the purchase of their building as part of the project, then we would have had to accommodate their needs for some continued operations. However, once they transfer their operations out of the deck and waiting area, they will no longer be using any part of that property.

Commissioner Bennett said he just wanted to ensure that the post office's use of Sibley and Jackson Streets for their operations would not affect our site.

Commissioner Reinhardt agreed that initially the post office was intending to do more than just retail at the building and in the area which may have caused some issues for us. She also commented that the FTA has not been able to give a definitive indication about the timing of the full funding grant agreement until the agreement between the Metropolitan Council and the University of Minnesota is resolved. The complexity of this agreement has been the main difficulty. Although it is not finalized, she understands that an agreement is in place and thanked Chair McDonough for his work on moving this forward.

Commissioner Parker commented on the performance measures for this department and said she would be interested in seeing a calculation for the modes of transportation people are using in the County. She also said job creation is a goal of ours and, although it is mentioned, it too does not seem to show up on our performance measurement system. She said measuring these would help us to see the progress.

Chair McDonough responded by saying this comment is very appropriate. Some of those measurements can be done within Ramsey County but a lot have to do with regional goals. As we begin to build out our

transit and transportation systems, we can sort out which ones we can start measuring in Ramsey County to set the stage for regional goals.

Tim Mayasich continued the 2011 Supplemental Budget Presentation:

Some of the Opportunities that will affect Rail Authority in the future include:

- Rail Authority staff will be located at the Union Depot allowing more interaction with the public, our modal partners, and the other tenants in the facility.
- The Rail Authority will continue to work with its partners on transit/transportation issues and financing for all modes of transportation.
- Establishing strong working relationships with the freight railroad companies will be extremely important to ensure commuter and passenger rail lines are permitted on existing freight rail corridors.
- The Rail Authority will contribute to the overall economic health of the community by supporting development that aligns with community goals recognizing the interrelationship between transportation, housing, employment, health, economic development and amenities that enhance quality of life.

Some of the challenges that will affect the Rail Authority in the future include:

- The Union Depot is a unique facility to Ramsey County. Operating costs, revenues, and the management of the Union Depot are unknown at this time. Policy decisions will need to be made on who will manage the Union Depot. Agreements with modal partners and retail/commercial entities will also be needed. An operating subsidy may be required.
- Long-term stable funding sources are needed for transit/transportation operations and infrastructure costs, including high speed rail lines. The designated gas tax and motor vehicle sales tax allocations are generating less revenue today due to more transit riders and the production of more fuel efficient vehicles.
- With local government entities finding themselves financially stressed due to the economy; funding, staffing, advocacy, and legislative issues will continue to challenge the Rail Authority in our efforts to deliver future transportation and transit corridors like: the Gateway, Rush Line, Red Rock, Robert Street, Riverview, and High Speed Rail.

This completed the presentation.

Commissioner Rettman said she appreciated the identification of these challenges because they are still lacking in terms of funding, and there will still be a matching of funds required by the State and/or the Counties involved.

CORRIDOR UPDATES

High Speed Rail Corridor (HSR)

Commissioner Rettman reminded the RCRRA of the HSR Summit that is being scheduled and organized for Wednesday, October 27, to take place at the Union Depot. A high attendance for this meeting is very important.

Central Corridor

Commissioner Carter asked for a bit more detail on the agreement between the Met Council and the University of Minnesota, and its impact on moving forward with the Central Corridor Project.

Chair McDonough replied that from the Met Council's perspective, they built, own and operate the system and this is important to them. From the University's perspective, the research that goes on at the corridor is not only critical to the University, but also critical to the state. From our perspective, especially for Ramsey County because 70% of the line is in Ramsey County, is to ensure that, as we sort out how

to build, operate and maintain the Light Rail system going through the middle of the research corridor, there is not a tilting of funds to address those issues. Additionally, we want to ensure that all the issues are addressed appropriately in this 11 mile corridor. It took a lot of time to come up with a solution that did not involve spending more money out of the project budget. Copies of the agreement can be distributed once we receive a final approval of it.

Rush Line Corridor

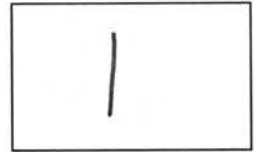
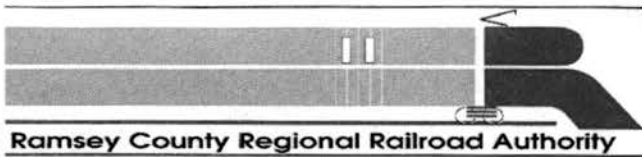
Commissioner Reinhardt said the Rush Line Corridor Task Force will be meeting tomorrow, Wednesday, September 8, 2010, and they will be moving forward with the bus transportation along that corridor. More definitive information will be given at the next RCRRA meeting.

Gateway Corridor (formerly I-94 Corridor)

A well attended press conference was held in Woodbury with our business partners and cities involved along the corridor. The next Gateway Corridor meeting is this week, Thursday, September 9. They will also be going to Washington, DC at the end of this month to advocate for the corridor.

ADJOURNMENT

There being no further business, Chair McDonough declared the meeting adjourned at 11:20 a.m.



REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
☒ Administrative ☐ Information

Regional Railroad Authority Meeting Date: 09/21/10

Regional Railroad Authority Meeting Date:

SUBJECT: Resolution supporting Washington County's application to the Counties Transit Improvement Board

EXECUTIVE SUMMARY:

The Counties Transit Improvement Board (CTIB) authorized the 2010 Grant Solicitation Process for grants payable in 2011. Washington County is requesting support for a grant application that would serve as a portion of the local match to the Red Rock Corridor Station Area Planning study.

Washington County is guaranteed three percent of the total estimated revenue generated by CTIB for each of the years 2010-2013. The Red Rock Corridor Commission (RRCC), for which Dakota, Ramsey and Washington County are funding partners, is currently leading a Station Area Planning study for the Southeast Stations of the Red Rock Corridor. Eighty percent (80%) of the funding for the study is being provided by federal funds and the remaining twenty percent (20%) through a local match.

Washington County is requesting a \$107,000 grant from CTIB for a local matching grant to federal funds for the Red Rock Corridor Station Area Planning Study.

ACTION REQUESTED

Support Washington County's application to the Counties Transit Improvement Board for grants payable in 2011 in the amount of \$107,000 to serve as a local matching grant to federal funds for the Red Rock Corridor Station Area Planning Study.

SUBJECT: Resolution supporting Washington County's application to the Counties Transit Improvement Board

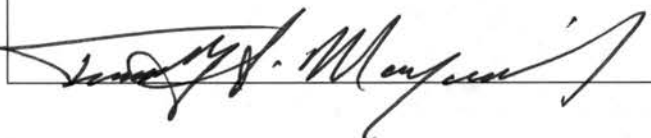
ATTACHMENTS:

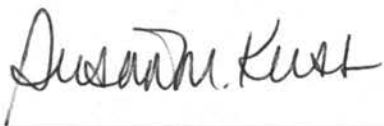
PREVIOUS ACTION:

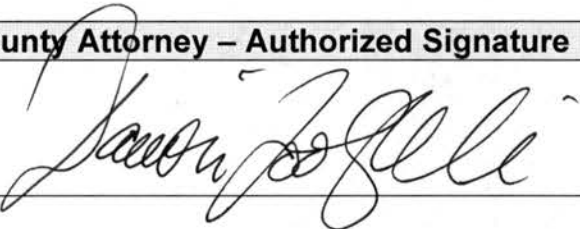
COUNTY MANAGER'S COMMENTS:

Support of Washington County's application will assist in the Red Rock Corridor which will ultimately provide commuter rail service from the southeast metro to the Union Depot.

SUBJECT: Resolution supporting Washington County's application to the Counties Transit Improvement Board

Regional Railroad Authority – Authorized Signature	Date
	9/16/10

Budgeting & Accounting – Authorized Signature	Date
	9/15/10

County Attorney – Authorized Signature	Date
	9/15/10

Property Management – Authorized Signature	Date

Information Services – Authorized Signature	Date

Other – Authorized Signature	Date

SUBJECT: Resolution supporting Washington County's application to the Counties Transit Improvement Board

Draft Resolution

1 WHEREAS, the Counties Transit Improvement Board (CTIB) has authorized the 2010 Grant
2 Solicitation Process for grants payable in 2011; and,

3
4 WHEREAS, Ramsey County Regional Railroad Authority has been a member of the
5 Counties Transit Improvement Board (CTIB) since 2008; and,

6
7 WHEREAS, Ramsey County Regional Railroad Authority has been a member of the Red
8 Rock Corridor Commission joint powers board since 1998; and,

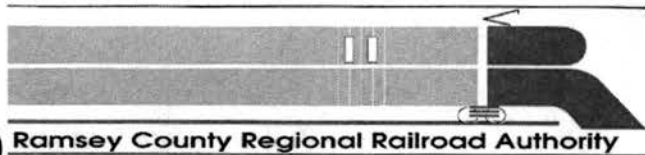
9
10 WHEREAS, the Red Rock Corridor is included in the 2030 Metropolitan Council
11 Transportation Policy Plan as a transitway; and

12
13 WHEREAS, the Red Rock Corridor Commission (RRCC) is leading a Station Area Planning
14 study for the Southeast Stations of the Red Rock Corridor; and,

15
16 WHEREAS, Washington County is guaranteed three percent of the total estimated revenue
17 generated from CTIB for each of the years 2010-2013; and

18
19 WHEREAS, 80% of the funding for the Station Area Planning Study is being provided by
20 federal funds and the remaining 20 percent is the local match. Now, Therefore Be It

21
22 RESOLVED, that Ramsey County Regional Railroad Authority supports Washington
23 County's application to the Counties Transit Improvement Board for grants payable in 2011 in the
24 amount of \$107,000 to serve as a local matching grant to federal funds for the Red Rock Corridor
25 Station Area Planning Study.



2

REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
☒ Administrative ☐ Information

Regional Railroad Authority Meeting Date: 09/21/10

Regional Railroad Authority Meeting Date:

SUBJECT: Amended and Restated Gateway (I-94) Corridor Joint Powers Agreement

EXECUTIVE SUMMARY

The I-94 Corridor is the eastern gateway to the Twin Cities carrying more than 130,000 vehicles a day at Trunk Highway 52 and 110,000 vehicles a day at I-694. The 2030 Transportation Policy Plan identifies the Corridor from downtown St. Paul to the St. Croix River as a congested corridor in 2030. To maintain and improve mobility in the corridor, transit improvements are needed.

On March 17th 2009, the Ramsey County Regional Railroad Authority approved a Joint Powers Agreement (JPA). This agreement established a joint powers board, known as the I-94 Corridor Commission, that brought together regional railroad authorities, cities, and township along the Corridor to cooperatively advocate for and analyze the feasibility, environmental impacts, engineering, and construction of a multi-modal transportation system that may include light rail, bus rapid, commuter rail, multi-use trails, and Intelligent Transportation Systems (ITS).

At its July 12, 2010 meeting, the Commission approved changing its name from the I-94 Corridor Commission to the Gateway Corridor Commission. In order to make this official, the JPA needs to be amended to reflect this proposed change. To achieve this, each individual party must go back to their respective governing body and pass a resolution approving the proposed change to the JPA. In addition to amending the name, the Commission agreed to a text revision to the JPA. The text revision allows the Agreement to be amended without individual Party approval where 'amending the Agreement is not substantive in nature.'

ACTION REQUESTED

1. Approve the amended and restated Gateway (I-94) Corridor Joint Powers Agreement.
2. Authorize the Chair and Chief Clerk to execute the amended and restated Gateway (I-94) Joint Powers Agreement.

SUBJECT: Amended and Restated Gateway (I-94) Corridor Joint Powers Agreement

ATTACHMENTS:

Amended and Restated Gateway (I-94) Corridor Joint Powers Agreement

PREVIOUS ACTION:

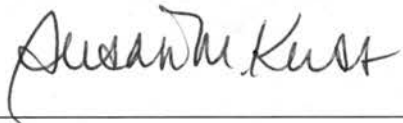
On March 17th 2009 (Resolution R09-09), the Ramsey County Regional Railroad Authority approved the Joint Powers Agreement.

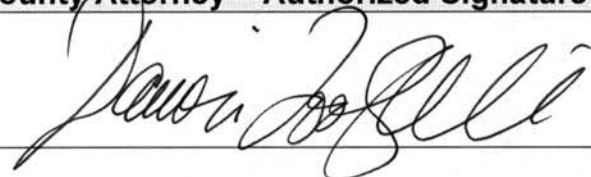
COUNTY MANAGER'S COMMENTS:

Ramsey County Regional Railroad Authority approval is required for Joint Powers Agreements.

SUBJECT: Amended and Restated Gateway (I-94) Corridor Joint Powers Agreement

Regional Railroad Authority – Authorized Signature	Date
	9/16/10

Budgeting & Accounting – Authorized Signature	Date
	9/15/10

County Attorney – Authorized Signature	Date
	9/15/10

Property Management – Authorized Signature	Date

Information Services – Authorized Signature	Date

Other – Authorized Signature	Date

SUBJECT: Amended and Restated Gateway (I-94) Corridor Joint Powers Agreement

Draft Resolution

1 WHEREAS, The I-94 Corridor currently carries 90,000 to 150,000 vehicles per day from the
2 St Croix River Bridge to downtown St Paul; and

3
4 WHEREAS, The 2030 Transportation Policy Plan has been approved by the Metropolitan
5 Council and shows that traffic and congestion are forecast to increase substantially by 2030
6 resulting in the entire length of I-94 from downtown St Paul to the St Croix River as being
7 congested; and

8
9 WHEREAS, The 2030 Transportation Policy Plan identifies the I-94 Corridor as a
10 Transitway Corridor in need of additional analysis; and

11
12 WHEREAS, The transitway analysis is needed to identify how mobility can be maintained
13 and improved in the corridor; and

14
15 WHEREAS, The I-94 Corridor Commission was created on March 3, 2010 with the Regional
16 Railroad Authorities of Ramsey and Washington County approving the Joint Powers Agreement
17 (JPA); and

18
19 WHEREAS, In addition to the County Regional Railroad Authorities, the communities of St
20 Paul, Maplewood, Oakdale, Woodbury, Lake Elmo, West Lakeland Township, Afton and Lakeland
also approved the JPA; and

21
22
23 WHEREAS, The I-94 Corridor Commission approved changing its name to the Gateway
24 Corridor Commission on July 12, 2010; and

25
26 WHEREAS, The existing JPA may be amended by unanimous agreement of the Parties as
27 evidenced by resolutions adopted by the respective governing bodies. Now, Therefore, Be It

28
29 RESOLVED, That the Ramsey County Regional Railroad Authority approves the revised
30 and amended Joint Powers Agreement of the Gateway Corridor Commission dated September 9,
31 2010 and Be It Further

32
33 RESOLVED, The Ramsey County Regional Railroad Authority authorizes the Chair and
34 Chief Clerk to execute the Gateway Corridor Joint Powers Agreement.

**JOINT POWERS AGREEMENT
ESTABLISHING THE
GATEWAY CORRIDOR COMMISSION**

THIS AGREEMENT, is entered into by and between the undersigned Regional Railroad Authorities, Cities, and Townships all being governmental units of the State of Minnesota, pursuant to the authority contained the Minn. Statutes §§471.59 and 398A.

WITNESSETH

WHEREAS, the Interstate 94 Corridor is defined as the transitway corridor originating at the Union Depot in downtown St. Paul and traveling east through Washington County with connections to other multi—modal transportation options; and

WHEREAS, the Interstate 94 Corridor has significant transportation safety, and land use issues; and

WHEREAS, there are opportunities for a variety of multi-modal transportation improvements to the Interstate 94 Corridor, including light rail transit, bus rapid transit or commuter rail along with multi-use trails, Intelligent Transportation Systems (ITS) and roadway improvements as related to the implementation of light rail transit, bus rapid transit or commuter rail; and

WHEREAS, the parties wish to collaboratively plan for multi-modal transportation improvements to the Interstate 94 Corridor and for the related land use and development impacts; and

WHEREAS, the Gateway Corridor Commission intends to work collaboratively with the, Minnesota Department of Transportation and the Metropolitan Council for the planning and development of light rail transit, bus rapid transit or commuter rail along with multi-use trails, Intelligent Transportation Systems (ITS) and roadway improvements as related to the implementation of light rail transit, bus rapid transit or commuter rail in the Interstate 94 Corridor.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein, the parties hereto agree to as follows:

ARTICLE 1.

DEFINITIONS

Unless context otherwise requires, the terms defined in this section shall have the meanings stated herein:

Agreement means this Joint Powers Agreement as it now exists and as it may hereafter be amended.

Commission (Gateway Corridor Commission) shall mean the Joint Powers body established hereby

Party or Parties shall mean any Regional Railroad Authorities, Cities or Townships identified in Article 6 of this Agreement as signatories to this Agreement.

Financial Parties shall mean the financial party or parties so identified in Article 6 of this Agreement.

Interstate 94 (I-94) Corridor shall be defined as the Interstate 94 transportation corridor originating at the Union Depot in downtown St. Paul and traveling east through Washington County.

Member shall mean an individual appointed to the Commission as provided in Article 4 of this Agreement.

Quorum shall mean a majority of members, provided such majority includes at least two (2) Financial Members as defined in the Agreement. A quorum shall not be found if fewer than two (2) Financial Members are present.

ARTICLE 2.

PURPOSE

The purpose of this Agreement is to form a joint powers board under the provision of Minnesota Statutes Section 471.59 and 398.A to enable the parties to cooperatively analyze the feasibility, environmental impacts, engineering, and construction of multi-modal transportation improvements in the I-94 Corridor including light rail transit, bus rapid transit or commuter rail along with multi-use trails, Intelligent Transportation Systems (ITS), roadway improvements as related to the implementation of light rail transit, bus rapid transit or commuter rail and the associated land use and development impacts. These activities may include but not be limited to the acquisition and management of federal, state, and local funding in conjunction with the Minnesota Department of Transportation and the Metropolitan Council, and may perform any responsibilities delegated by the Commissioner of Transportation or Metropolitan Council Chair subject to the conditions that sufficient funds are received.

The Parties will communicate and coordinate the Commission's activities as necessary with private corporations, state agencies, counties, municipalities, the Federal Transit Administration, other regulatory, planning, and funding agencies, and other stakeholders for advancement of the Commission's purposes.

The method of accomplishing the purpose of this Agreement is the establishment of a Joint Powers Board to provide a mechanism whereby the Parties jointly address the stated purposes.

ARTICLE 3.

TERM

This Agreement shall be effective (the Effective Date) and the joint powers board established herein may commence exercising the powers and authorized in this Agreement on the day that the Agreement has been approved by resolution and duly executed by the Ramsey County Regional Railroad Authority and the Washington County Regional Railroad Authority by action

of their governing boards. This Agreement shall remain in full force and effect until terminated by the Parties pursuant to Article 10 of the Agreement.

ARTICLE 4.

JOINT POWERS BOARD

- A. There is hereby created a Joint Powers Board as a public entity, to be known as the Gateway Corridor Commission. The Commission shall be an entity separate from its member Parties and shall not be deemed an agent or partner of the member Parties and the member Parties shall not be liable for the actions of the Commission. The Commission shall have full authority to exercise all powers stated herein.
- B. The Commission shall consist of one Member and one alternate appointed through resolution by a Party for an initial term commencing with the execution of this Agreement until January 15, 2010. Each Member or alternate must be a member of the governing body, commission, or council which appoints him or her, and must remain so during his or her term.
- C. After January 15, 2010, the governing body, commission, or council shall appoint by resolution its member and alternate for one year terms. In the event that any Member or alternate shall not have been appointed by January 15 in any year, the incumbent Member shall serve until a successor has been appointed. Removal of any Member or alternate during the term for which the Member has been appointed may be done at any time but shall be done only by resolution of the appointing governing body, commission, or council, or automatically if the Member ceases to be a member of the Party which appointed him or her.

ARTICLE 5.

VOTING

Board voting shall be as follows: Each Financial Party Member receives three (3) votes and each non-Financial Party Member receives one (1) vote.

- A. In the event that the appointed Member is not present at the meeting, their alternate may cast all of their Party's allocated votes.
- B. All actions of the Board require both a simple majority vote of the Members present and a simple majority vote of the Financial Members present. However, for all actions involving the expenditure of funds and adoption of the budget, a simple majority of the whole Board plus a unanimous vote of all Financial Members is required.

ARTICLE 6.

MEMBERSHIP

The government units that are eligible for participation in this Commission upon adoption of this agreement by resolution and duly executed by their respective governmental units on or before December 31, 2009 include:

A. Financial Parties

- a. Ramsey County Regional Railroad Authority
- b. Washington County Regional Railroad Authority

B. Non-financial Parties

- a. City of St. Paul
- b. City of Maplewood
- c. City of Landfall
- d. City of Oakdale
- e. City of Woodbury
- f. City of Lake Elmo
- g. City of Afton
- h. City of Lakeland
- i. Town of West Lakeland

C. If an entity identified in this Article 6 does not elect to become a Party by December 31, 2009, it may do so thereafter by amendment to this Agreement pursuant to Article 11 hereof.

D. Following the initial term, Commission Members' terms shall commence on January 15 of a calendar year and end on January 14 of the next succeeding year, or until a successor is appointed.

ARTICLE 7.

POWERS OF COMMISSION

The Commission has such authority as is necessary and proper to make all decisions to carry out its purpose as described in Article 2. Such powers shall be subject to the provisions of Minn. Stat. § 471.59 and 398A and will include, but not be limited to, any or all of the following:

- A. Adopt an annual budget, together with a statement of the sources of funding and an estimated amount required of each Financial Party.
- B. Enter into transactions, including contracts or leases, required in furtherance of this Agreement and statutory mandate and enforce such transactions to the extent available in equity or at law. The contracting and purchasing requirements of one of the Financial Parties designated by the Commission shall apply hereto. The Commission may approve any contract relating to this Agreement up to the amount approved in the annual budget and may authorize the Chair of the Commission to execute those contracts.
- C. Have the power to adopt such by-laws that it may deem necessary or desirable for the conduct of its business. Such by-laws shall be consistent with this Agreement and any applicable laws or regulations. The by-laws may provide for the appointment of ex officio, non-voting members to the Board by the Commission. Approval of the by-laws shall be in accordance with Article 5 of this Agreement.

- D. Apply for and accept gifts, grants and loans of money, other property, or assistance from the United States government, the State of Minnesota, or any person, corporation, partnership, association, or agency public or private for any of its purposes; enter into any agreement in connection therewith to hold, use and dispose of such money, other property; and assistance in accordance with the terms of the gifts, grants, or loans relating thereto.
- E. Acquire and hold such real and personal property as may be required to accomplish the purposes of this Agreement and, upon termination of this Agreement, make distribution of such property as is provided for in this Agreement.
- F. Employ agents and employees, and to fix the compensation and all other terms and conditions of employment thereof.
- G. Incur debts, liabilities, or obligations which do not constitute a debt of any of the Parties. The Joint Powers Board does not have authority to incur debts, liabilities, or obligations which constitute a debt of any of the Parties. The obligations or other forms of indebtedness must be issued in the same manner as would apply to one of the Financial Parties.
- H. Enter into agreements and non-binding memoranda of understanding between the Commission and the United States government, the State of Minnesota, or any person, corporation, partnership, association, or agency public or private in accordance with applicable law.
- I. Sue and be sued in its own name.
- J. Exercise such authority as is necessary and proper to carry out the mandates set forth in this Agreement without individual Party approval unless otherwise specified herein, including, but not limited to amending the Agreement in a manner that is not substantive in nature.

All powers granted herein shall be exercised by the Commission in accordance with the legal requirements applicable to the regional railroad authorities.

ARTICLE 8.

OFFICERS, EMPLOYEES, AND SERVICES

A. Chair and Vice-Chair

The Commission shall elect a Chair and Vice-Chair at its first regular meeting each year. The Chair and Vice-Chair shall consist of at least one Financial Party member. The Chair and Vice-Chair shall be elected by the Commission for a term of one (1) year. The Chair shall preside at all meetings of the Commission, may establish such committees as may be needed from time to time and shall perform other duties and functions as may be determined by the Commission. The Vice-Chair shall assume the duties of the Chair during the absence of the Chair and perform such other duties as may be determined by

the Commission. If both the Chair and Vice-Chair are absent, the Commission may elect a temporary Chair to conduct its business, provided a quorum is present. Election of a temporary chair shall be by a simple majority vote of the quorum.

B. Executive Committee

The Commission may establish an Executive Committee of the Commission consisting of the representative of each Financial Member. The Executive Committee shall develop and make recommendations to the Commission regarding the ongoing responsibilities of the Commission and shall have such other duties as set forth in the Commission's by-laws.

C. Staff

Any Party may provide staff support to the Commission subject to the approval of the Commission.

D. Vacancies

If an appointment of any Member or alternate is vacated before the end of his or her term, the vacancy shall be filled by appointment by the appropriate Party pursuant to Articles 4 and 6 of this Agreement. Vacancies shall be filled within thirty (30) days of their occurrence. A vacancy shall be deemed to have occurred when any of the conditions specified in Minn. Stat. § 351.02 exist.

E. Meetings

The Commission shall meet at regular intervals at such times and places as the Commission shall establish in its by-laws. Special meetings may be held on reasonable notice by the Chair or any two members upon terms and conditions as the Commission may determine and that conform to the Minnesota Open Meeting Law, Minn. Stat. § 13D.

F. Committees

The Commission may establish standing committees of the Commission by providing for such committees by resolution. The Chair may establish ad hoc committees of the Commission.

ARTICLE 9.

FUNDING

It is understood by the Parties that the activities and duties of the Commission are to be funded primarily by grant monies from the United States Government, the State of Minnesota or any other association or agency. Nevertheless, the Financial Parties identified in this Agreement agree to provide funding, if necessary, for the feasibility, environmental impacts, engineering, and construction of a multi-modal transportation improvement in the I-94 Corridor including light rail transit, bus rapid transit, commuter rail, multi-use trails, and Intelligent Transportation Systems (ITS) along with the associated land use and development impacts, and administrative expenses of the Commission (to the extent not covered by grant funds), and other items deemed necessary to facilitate development of the corridor. The Financial Parties will establish an initial budget. The Financial Members contribution to the initial budget and all subsequent budgets shall be allocated as follows:

50%	Ramsey County Regional Railroad Authority
50%	Washington County Regional Railroad Authority

Each Financial Party shall pay its appropriate initial contribution to the regional railroad authority acting as fiscal agent of the Commission within sixty (60) days of the Commission approving a budget.

A. Annual Budget

For the calendar year next following the calendar year in which the Effective Date occurs and all subsequent years, the Commission shall establish and approve a budget. Each Financial Member shall be assessed for its proportionate share of the budget according to the schedule established above. The Commission shall establish its first budget within sixty (60) days of the commencement of the Commission.

B. Financial Members' Budget Approval

Adoption of the budget and any other matter requiring expenditure of funds shall be in accordance with Article 5 of this Agreement.

C. Contribution Date

Except for any initial contribution required by this Agreement, assessments made under the provisions of this article shall be paid by each Financial Party by January 15 of each year. The initial contribution shall be made within sixty (60) days of the adoption of the budget pursuant to Article 7(A) hereof.

D. Budgeting, Accounting, Fiscal Agent, and Other Services

The Commission may contract with any Party to provide contract management, legal review, and budgeting and accounting services necessary or convenient for the Commission and otherwise act as the Commission's fiscal agent. Such services shall include, but not be limited to, management of all funds, including contributions and grant monies, payment for contracted services, and relevant bookkeeping and record keeping. The contracting and purchasing requirements of the Party so selected shall apply to transactions of the Commissions. Such Party shall identify the staff person to work as liaison with the Commission.

E. Accountability for Funds

All funds shall be accounted for according to generally acceptable accounting principles. A report on all receipts and disbursements shall be forwarded to the Commission on an annual basis. The Parties have the authority to request reports pertaining to any and all budgeting and accounting services. All interest earned from established Commission funds shall be credited back to that same fund.

ARTICLE 10.

WITHDRAWAL AND TERMINATION

A. Withdrawal

Any Party may withdraw from this Agreement upon 90-days prior written notice evidenced by resolution of the Party's governing body to the Commission. In the event of withdrawal by any Party, this Agreement shall remain in full force and effect as to all remaining Parties.

B. Effect of Withdrawal, Disposition of Property, Funds, and Obligations

A Financial Party withdrawing from this Agreement shall, prior to such withdrawal, pay the full amount of any unpaid assessments to the Commission as defined in Article 9. A Party withdrawing from this Agreement shall not receive a distribution of property or funds until such time as this Agreement is terminated by all Parties pursuant to this Article 10. Such disposition of property shall be in accordance with the provisions of Section D of this Article 10.

Any Financial Party withdrawing shall be liable for any assessment in the year in which the withdrawal becomes final only for the period in such year that the Financial Party remains a party. The Financial Party's assessment shall not exceed the sum of one-twelfth ($1/12^{\text{th}}$) the full assessment multiplied by the number of months or fractions thereof in the year during which the party remains a party.

C. Termination

This Agreement shall terminate upon the occurrence of any one of the following events:

- a. When necessitated by operation of law or as a result of a decision by a court of competent jurisdiction; or
- b. When all of the Financial Parties agree, by resolution adopted by the respective governing bodies, to terminate this Agreement and all obligations of the Commission shall have been paid or otherwise defeased in full.

D. Disposition of Property and Funds

At such time as this Agreement is terminated, any property interest remaining in the Commission, following discharge of all obligations owed by the Commission shall be disposed of and the proceeds of the property shall be returned to the Parties in proportion to their contribution.

E. Effect of Withdrawal of Financial Party on Budget

In the event a Financial Party withdraws, the unpaid assessment allocable to such member in the year of withdrawal and subsequent years shall be reallocated to the remaining Financial Party.

ARTICLE 11.

MISCELLANEOUS

A. Amendments

This Agreement may be amended by unanimous agreement of the Parties as evidenced by resolutions adopted by the respective governing bodies.

B. Records, Accounts, and Reports

The Commission shall establish and maintain such funds and accounts as may be required by good accounting practices. The books and records of the Commission shall be subject to the provisions of Minn. Stat. Ch. 13, the Minnesota Government Data Practices Act, and Minn. Stat. § 16C.05, subd. 5. The Commission, within one hundred twenty (120) days after the close of each fiscal year which shall be January 1 to December 31, shall give a complete written report of all financial activities for such fiscal year to the Parties.

C. Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

D. Severability

The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of the Agreement is for any reason held to be contrary to law, or contrary to any rule or regulation having the force and effect of law, such decision shall not affect the remaining portions of this Agreement.

E. Entire Agreement

This Agreement constitutes the entire agreement between the Parties and supersedes all prior written or oral agreements relating to the Commission.

F. Alternative Dispute Resolution

In the event of a dispute arising under this Agreement, the Parties and the Commission agree to attempt to resolve their dispute by following the process described below:

- a. A Party shall provide written notice to the Commission describing perceived conflict, positions, and underlying reasons.
- b. The Commission shall provide written response to notice within seven (7) days of receipt of notice.
- c. The Parties shall meet within 14 days of receipt of response with a neutral facilitator. The neutral facilitator will be a representative from the Minnesota Office of Dispute Resolution. Costs of such facilitator shall be shared equally by all parties to the dispute.
- d. At the first meeting, the neutral facilitator will assist the Parties in identifying the appropriate Parties and participants in the dispute resolution process, their concerns, a meeting agenda and design for any subsequent meetings. The Parties shall agree on a process for resolving the problem that would involve additional negotiations, mediation, or arbitration.
- e. In developing the process, the parties will be guided by the following principles:

- i. the Parties will attempt in good faith to reach a negotiated settlement;
 - ii. the Parties agree that there must be fair representation of the parties directly involved in the dispute;
 - iii. the Parties will use legal proceedings as a last resort; and
 - iv. in the event the Parties are unable to resolve the dispute, each Party retains all rights, remedies, or defenses it had prior to entering the process.
- f. The parties will report to the Commission within 60-days of their first meeting on the resolution of the dispute or a recommendation to commence legal proceedings.

G. Minnesota Laws Govern

The Laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the Parties and their performance. The appropriate venue and jurisdiction for any litigation shall be in State district court located within the County of Ramsey, State of Minnesota. Litigation, however, in the federal courts involving the Parties will be in the appropriate federal court within the State of Minnesota. If any provision of this agreement is invalid, illegal, or unenforceable the remaining provisions will not be affected.

IN WITNESS WHEREOF, the parties to this Agreement have hereunto set their hands on the date written below.

IN TESTIMONY WHEREOF the parties have duly executed this agreement by their duly authorized officers.

WASHINGTON COUNTY REGIONAL RAIL AUTHORITY

Myra Peterson, Chair Date
Washington County Regional Railroad Authority

James R. Schug Date
County Administrator

Approved as to form:

Asst. County Attorney Date

Recommended for approval:

Donald J. Theisen, PE Date
County Engineer/ Director

IN TESTIMONY WHEREOF the parties have duly executed this agreement by their duly authorized officers.

RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY

Jim McDonough, Chair
Ramsey County Regional Railroad Authority

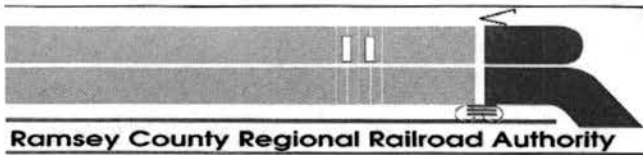
Date

Darwin Lookingbill
Asst. County Attorney

Date

Timothy A. Mayasich
Director

Date



3

REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
☒ Administrative ☐ Information

Regional Railroad Authority Meeting Date: 09/21/10

Regional Railroad Authority Meeting Date:

SUBJECT: Union Depot Multi-Modal Transit Hub Project: Phase II Construction Manager at Risk Services

EXECUTIVE SUMMARY:

Staff is requesting approval to execute the Part 2 Agreement with Mortenson Construction (Mortenson) for Phase II Construction Manager at Risk services for the Union Depot Multi-Modal Transit Hub project (Project) and to accept the updated budget and financing plan and schedule.

On January 12, 2010, by Resolution R10-11, the Ramsey County Regional Railroad Authority (RCRRA) approved a Part 1 Agreement with Mortenson for Phase I Construction Manager/Design Team services for the project. On April 20, 2010 and June 22, 2010 the design team updated the RCRRA on the progress of the project.

Phase I services have been completed and Mortenson has submitted a Guaranteed Maximum Price (GMP) of \$148,753,916 to complete the project.

Staff recommends that the RCRRA authorize the Chair to execute the Part 2 Agreement with Mortenson for Phase II Construction Manager at Risk services for the project with a guaranteed maximum price of \$148,753,916, subject to approval by the County Attorney's office and the Directors of RCRRA and Property Management.

(Executive Summary continued on next page)

ACTION REQUESTED

1. Accept and approve the updated Union Depot Multi-Modal Transit Hub budget, schedule and financing plan.
2. Approve a Part 2 Agreement with Mortenson Construction for Phase II Construction Manager at Risk services for the project with a Project Gross Maximum Price of \$148,753,916.
3. Authorize the Chair of the RCRRA to execute a Part 2 Agreement with Mortenson Construction for Phase II Construction Manager at Risk Services for the project, subject to approval by the County Attorney's office and the Directors of RCRRA and Property Management

SUBJECT: Union Depot Multi-Modal Transit Hub Project: Phase II Construction Manager at Risk Services

(Executive Summary continued)

The RCRRA has worked with a variety of local, state and federal partners on the development of the Union Depot as a multi-modal transit hub since approximately 2001. An Environmental Assessment was completed on the project in 2009 and a Finding of No Significant Impact (FONSI) was issued on April 26, 2010 by the Federal Highway Administration. The FONSI completes the federal environmental process and makes the project eligible for federal funding for construction. RCRRA has assembled the thirty-three acres required for the project. The United States Postal Service will turn over possession of the train deck portion of the property by December 31, 2010. Construction is scheduled to start on January 3, 2011 and be completed by the end of 2012.

The project has been awarded several federal and state grants, including \$45.3 million in the SAFETEA-LU transportation authorization bill passed in 2006 as a Project of National and Regional Significance. In 2010, the project received a \$35 million TIGER grant as part of the federal stimulus program. An application was filed in July for \$40 million in Federal Railroad Administration funding through MnDOT. In August, an application was filed for \$30 million under a second round of TIGER grants. The TIGER II program includes the potential for a \$46.4 million federally subsidized loan under the TIFIA program that would be evaluated as a potential financing option if received. Dates for award have not been announced but they will likely be completed by early 2011.

Cash flow projections prepared maintaining the current levy and assuming no additional federal or state funding identifies a need for additional financing for the project in approximately September, 2011. As the project proceeds and grant announcements are made, staff will return to the Board with a final financing plan. That should be completed by June of 2011.

SUBJECT: Union Depot Multi-Modal Transit Hub Project: Phase II Construction Manager at Risk Services

ATTACHMENTS:

1. Updated Union Depot project budget and financing plan
2. Updated Union Depot project schedule
3. Draft Part 2 Agreement

PREVIOUS ACTION:

Resolution R10-11 authorizing an Agreement with Mortenson Construction to perform Phase 1 design services for the Union Depot Multi-Modal Transit Hub project.

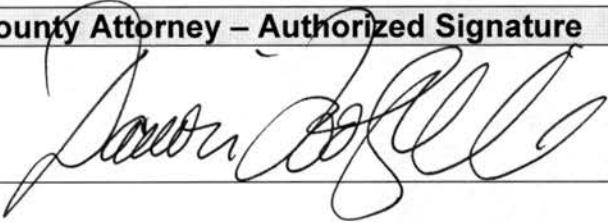
COUNTY MANAGER'S COMMENTS:

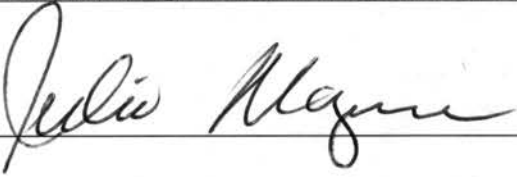
The Union Depot Multi-Modal Transit Hub project was identified by Congress as a Project of National and Regional Significance. The project will link Amtrak and intercity buses with local bus and light rail service in a seamless manner. It will provide employment and other economic development benefits to Ramsey County. This action will allow the project to remain on schedule for completion by the end of 2012. The current financing plan will be amended based on the outcome of recent grant applications and analysis of financing options. Any changes in funding sources will be returned to the Board for your consideration.

SUBJECT: Union Depot Multi-Modal Transit Hub Project: Phase II Construction Manager at Risk Services

Regional Railroad Authority – Authorized Signature	Date
	9/16/10

Budgeting & Accounting – Authorized Signature	Date
	9/15/10

County Attorney – Authorized Signature	Date
	9/15/10

Property Management – Authorized Signature	Date
	9-15-10

Information Services – Authorized Signature	Date

Other – Authorized Signature	Date

SUBJECT: Union Depot Multi-Modal Transit Hub Project: Phase II Construction Manager at Risk Services

Draft Resolution

1 WHEREAS, On January 12, 2010, by resolution R10-11, the Ramsey County Regional
2 Railroad Authority approved a Part 1 Agreement with Mortenson Construction for Phase I
3 Construction Manager at Risk services for the Union Depot Multi-Modal Transit Hub project ;
4 and

5
6 WHEREAS, On April 20, 2010 and June 22, 2010 the project team updated the Ramsey
7 County Regional Railroad Authority on the project; and

8
9 WHEREAS, A Gross Maximum Price of \$148,753,916 has been developed that is within
10 the project budget and:

11
12 WHEREAS, Staff recommends that the Ramsey County Regional Railroad Authority
13 Board authorize the Chair to execute a Part 2 Agreement with Mortenson Construction for
14 Phase II Construction Manager at Risk Services for the project, Now, Therefore Be It

15
16 RESOLVED, That the Ramsey County Regional Railroad Authority accepts and
17 approves the updated project budget, schedule and financing plan, and Be it Further

18
19 RESOLVED, That the Ramsey County Regional Railroad Authority hereby approves a Part
20 2 Agreement with Mortenson Construction for Phase II Construction Manager at Risk services for
21 the project with a Project Gross Maximum Price of \$148,753,916, and Be it Further

22
23 RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes its
24 Chair to execute a Part 2 Agreement with Mortenson Construction for Phase II Construction
25 Manager at Risk Services for the project, subject to approval by the County Attorney's office and
26 the Directors of RCRRA and Property Management.
27

Ramsey County Regional Railroad Authority
Union Depot Project Budget
September 14, 2010

Project Budget:**Actual and Estimated Costs****Land Acquisition/Planning**

Parking Lots (Expended)	\$8,918,264	
Post Office/Headhouse Purchase (Expended)	\$53,695,515	
Environmental Assessment (Expended)	\$1,059,604	
Total Land Acquisition/Planning		\$63,673,383

Design/Construction Costs

Part 1 Agreement (Expended)	\$5,481,808	
Part 2 Agreement	\$143,272,108	
Total Gross Maximum Price (GMP)		\$148,753,916

Other Design and Construction Activities

Class 1 Railroad (Includes Design and Contingency)	\$7,240,000	
Eastern Construction Site Improvements 2015	\$1,500,000	
Total Other Design and Construction Activities		\$8,740,000

Furniture, Fixtures and Equipment

Furnishings/Fixtures (Office, seating, etc)	\$50,000	
Equipment (A/v, Kitchen, etc)	\$75,000	
Security Cameras & Other Equipment	In GMP	
Signage (Interior, exterior)	In GMP	
Design Services	In GMP	
Total Furniture, Fixtures and Equipment		\$125,000

Technology

Tele/Data - Equipment	\$40,000	
Tele/Data - Building Wiring (in construction)	\$50,000	
Network Connectivity to Site	\$100,000	
Sound System - Great Hall	\$80,000	
Design Services	\$0	
Total Technology		\$270,000

Administration and Other Costs

Project Administration	\$350,000	
Soil Boring/Geotechnical	In GMP	
Specialty Testing	\$100,000	
Agency Review (Special Fees - MPCA - Outside Permitting)	In GMP	
SAC Charges	In GMP	
Hazard Survey and Abatement	In GMP	
Demolition	In GMP	
Site Survey	In GMP	
Builders Risk Insurance/Hazardous Abatement Insurance	\$400,000	
Specialty Consultants (Project Oversight)	\$500,000	
Way Finding Signage	\$750,000	
Administrative Contingency (10% Admin items)	\$210,000	
Total Administration and Other Costs		\$2,310,000

Owner's Contingency**\$19,520,591****Total Estimated Project Cost****\$243,392,890**

Ramsey County Regional Railroad Authority
Union Depot Project Financing Plan
September 14, 2010

Attachment # 1
(continued)

Total Estimated Project Cost

\$243,392,890

Project Revenues:

SAFETEA LU, 1301 Funds	\$45,000,000
TIGER 1 Funds	\$35,000,000
Other Federal Funds	\$4,028,535
State Bond Funds	\$4,000,000
Post Office Skyway Demolition Cost Sharing	\$30,000
Expended RCRRA Levy Dollars	<u>\$51,507,508</u>

Total Identified Revenues

\$139,566,043

***To Be Funded

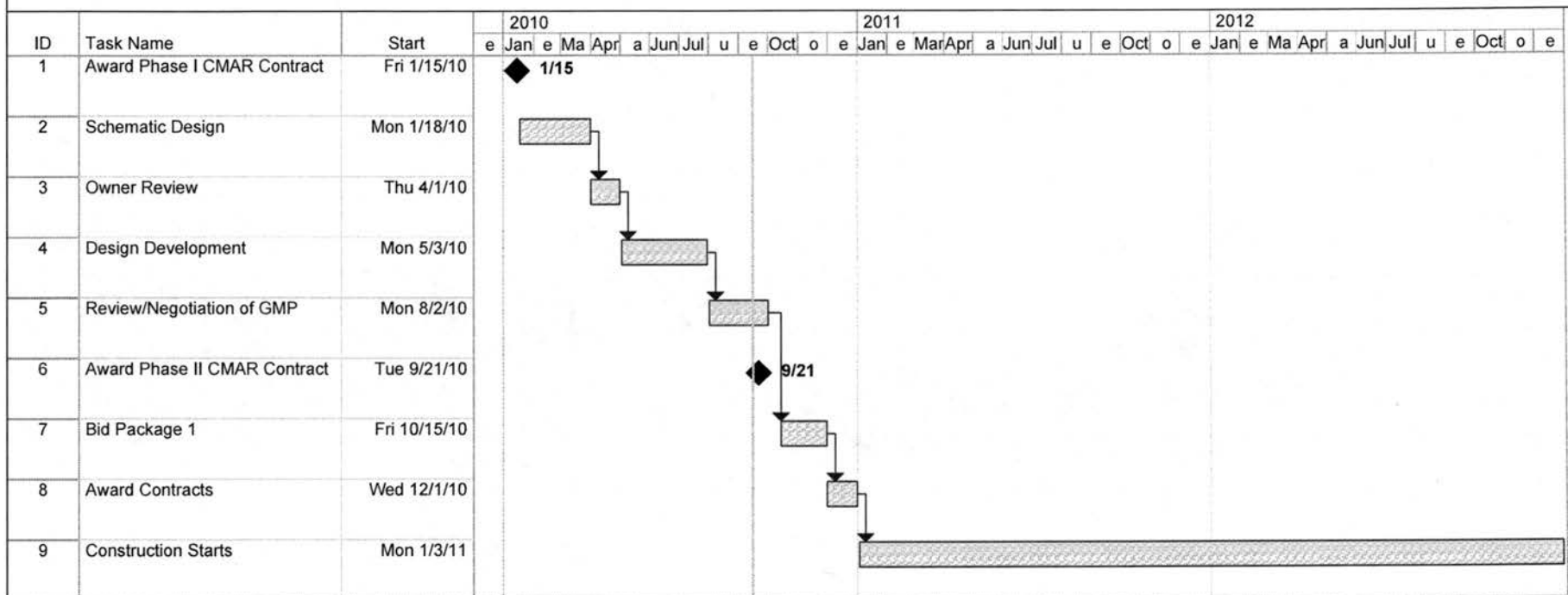
\$103,826,847

***Funding to come from levy, grants, TIFIA, bonding,
Xcel Energy Rebates, or other revenue sources

Note: Additional RCRRA levy dollars were approved to match
federal TIGER funds on 8/3/10.

\$9,000,000

Attachment H



Project: Depot Schedule08-28-10
Date: Wed 9/15/10

Task



Milestone



External Tasks



Split



Summary



External Milestone



Progress



Project Summary



Deadline



**AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER AT RISK
FOR RENOVATION OF THE UNION DEPOT MULTIMODAL TRANSIT AND TRANSPORTATION
HUB IN SAINT PAUL, MINNESOTA**

PART 2 AGREEMENT

1. GENERAL PROVISIONS
2. OWNER
3. CONSTRUCTION MANAGER AT RISK
4. TIME
5. PAYMENTS
6. PROTECTION OF PERSONS AND PROPERTY
7. INSURANCE AND BONDS
8. CHANGES IN THE WORK
9. CORRECTION OF WORK
10. DISPUTE RESOLUTION – MEDIATION AND ARBITRATION
11. MISCELLANEOUS PROVISIONS
12. TERMINATION OF THE AGREEMENT
13. BASIS OF COMPENSATION
14. OTHER CONDITIONS AND SERVICES

AGREEMENT made

BETWEEN the Owner:
Ramsey County Regional Railroad Authority
50 West Kellogg Blvd.
Room 6560
St. Paul, MN 55102

and the Construction Manager at Risk:
M. A. Mortenson Company
700 Meadow Lane North
Minneapolis, MN 55432

For the following Project:

The Union Depot Multimodal Transit and Transportation Hub in Saint Paul, Minnesota, as described in the Owner's RFP number RRA87-11.

This Project is made up of two (2) phases. See the Part 1 Agreement for the description of the Phase I services provided by the Construction Manager at Risk.

This Part 2 Agreement will include the balance of design, construction documents, bidding, and project construction for the Project. See **Exhibit A - Construction Manager at Risk's GMP Package**, attached hereto and made a part of this Part 2 Agreement, for a description of Phase II services. Phase II services will be provided using the Construction Management At Risk delivery method.

The architectural and engineering services described in this Part 2 Agreement will be provided by the following entities lawfully licensed to practice architecture or engineering, both of which shall be referred to as "Architect" in this Part 2 Agreement with respect to their respective scopes.

For the **Union Depot Building**:

Name and address	Registration Number	Relationship to Construction Manager at Risk
Hammel, Green and Abrahamson, Inc. 701 Washington Avenue North Minneapolis, MN 55401		Direct design consultant

For the **Transportation Engineering and Track Work**:

Name, address and discipline	Registration Number	Relationship to Construction Manager at Risk
URS Corporation Fifth Street Towers 100 South 5th St., Suite 1500 Minneapolis, MN 55402		Direct design consultant

See further designer scope delineation in **Exhibit A – Construction Manager at Risk's GMP Package**.

The Owner and the Construction Manager at Risk agree as set forth below.

TERMS AND CONDITIONS – PART 2 AGREEMENT

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 BASIC DEFINITIONS

§ 1.1.1 The Contract Documents consist of the Part 1 Agreement to the extent not modified by this Part 2 Agreement; the Construction Manager at Risk's Design Documents approved by the Owner under the Part 1 Agreement; this Part 2 Agreement; the Construction Documents approved by the Owner in accordance with Section 3.2.3 of this Part 2 Agreement; and Modifications issued after execution of this Part 2 Agreement. A Modification is a Change Order or a written amendment to this Part 2 Agreement signed by both parties, or a Construction Change Directive issued by the Owner in accordance with Section 8.3 of this Part 2 Agreement. In the event of inconsistencies or conflicts between the various documents, the following order of precedence shall apply: 1) Modifications and Change Orders to this Part 2 Agreement, 2) this Part 2 Agreement, 3) the Exhibits to this Part 2 Agreement, 4) Construction Documents, 5) the Part 1 Agreement, and 6) the Exhibits to the Part 1 Agreement. If there are

inconsistencies among the Contract Documents or among the attachments to this Part 2 Agreement, the more detailed shall prevail over the general.

§ 1.1.2 The term "Work" means all design, bidding, and construction services provided by the Construction Manager at Risk to fulfill the Construction Manager at Risk's obligations.

§ 1.2 EXECUTION, CORRELATION AND INTENT

§ 1.2.1 It is the intent of the Owner and the Construction Manager at Risk that the Contract Documents include all items necessary for proper execution and completion of the Work. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Construction Manager at Risk shall be required only to the extent consistent with and reasonably inferable from the Contract Documents as being necessary to produce the intended results. Words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.2.2 If the Construction Manager at Risk believes or is advised by the Architect or by another design professional retained to provide services on the Project that implementation of any instruction received from the Owner would cause a violation of any applicable law, the Construction Manager at Risk shall notify the Owner in writing. Neither the Construction Manager at Risk nor the Architect shall be obligated to perform any act which either believes will violate any applicable law.

§ 1.2.3 Nothing contained in this Part 2 Agreement shall create a contractual relationship between the Owner and any person or entity other than the Construction Manager at Risk.

§ 1.3 OWNERSHIP AND USE OF DOCUMENTS

§ 1.3.1 The Owner owns 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 created under this Part 2 Agreement and for which the Construction Manager at Risk has received Final Payment as defined in this Paragraph 1.3.1. "Works" means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, created or originated by the Construction Manager at Risk, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this contract that are actually provided to the Owner as deliverables, that are deliverables in draft form or still "in-progress", or that are expected to become part of the deliverables. "Works" includes "Documents". "Documents" are any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, created by the Construction Manager at Risk, its employees, agents, or subcontractors, in the performance of this contract. The Documents actually provided to the Owner as deliverables, that are deliverables in draft form or still "in-progress", or that are expected to become part of the deliverables will be the exclusive property of the Owner and all such Documents must be immediately returned to the Owner by the Construction Manager at Risk upon termination of this contract; provided, however, that the Construction Manager at Risk, the Architect, and their subconsultants and subcontractors shall be entitled to each keep one archive record set of

such so long as they have liability under this Part 2 Agreement. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire". The Construction Manager at Risk assigns all right, title, and interest it may have in the Works and the Documents for which it has received Final Payment to the Owner. For purposes of this Section 1.3.1, for deliverables in draft form or still "in-progress", or that are expected to become part of the deliverables, "Final Payment" means payment of the cost for the services provided to create the Works and Documents to the then-current stage of completion. The Construction Manager at Risk must, at the request of the Owner, execute all papers and perform all other acts necessary, at no cost to the Construction Manager at Risk, to transfer or record the Owner's ownership interest in the Works and Documents. The Works and Documents for which the Owner has made Final Payment to the Construction Manager at Risk shall be submitted to the Owner, upon request. Works and Documents in electronic form shall be provided to the Owner in both native format and PDF. The Construction Manager at Risk may retain copies of the Works and Documents only for purposes of performance under the terms of this contract, and for its records as part of the Project file, and may not use any such Works or Documents for any other purposes without the prior written consent of the Owner, except that the Architect may reuse details and specifications contained in the Works and Documents which have been developed by the Architect as the Architect's standards for similar public projects.

§ 1.3.2 The Owner shall have the right to use the drawings, specifications, and other documents and electronic data furnished by the Construction Manager at Risk without the written permission of the Construction Manager at Risk. Such use shall be at the Owner's risk.

ARTICLE 2 OWNER

§ 2.1 The Owner designates Paul Nahurski as its representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall examine documents submitted by the Construction Manager at Risk and shall render decisions in a timely manner and in accordance with the schedule accepted by the Owner. The Owner may obtain independent review of the Contract Documents by a separate architect, engineer, contractor or cost estimator under contract to or employed by the Owner. Such independent review shall be undertaken at the Owner's expense in a timely manner and shall not delay the orderly progress of the Work.

§ 2.2 The Owner may appoint an on-site project representative to observe the Work and to have such other responsibilities as the Owner and the Construction Manager at Risk agree to in writing.

§ 2.3 The Owner shall cooperate with the Design/Builder in securing building and other permits, licenses and inspections. The Owner shall not be required to pay the fees for such permits, licenses and inspections unless otherwise required by this Agreement.

§ 2.4 The Owner shall furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including such auditing services as the Owner may require to verify the Construction Manager at Risk's Applications for Payment, except in relation to any dispute between the parties.

§ 2.5 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or nonconformity with the Construction Documents, the Owner shall give prompt written notice thereof to the Construction Manager at Risk.

§ 2.6 The Owner shall communicate with persons or entities employed or retained by the Construction Manager at Risk through the Construction Manager at Risk, unless otherwise directed by the Construction Manager at Risk.

ARTICLE 3 CONSTRUCTION MANAGER AT RISK

§ 3.1 SERVICES AND RESPONSIBILITIES

§ 3.1.1 Design services required by this Part 2 Agreement shall be performed by qualified architects and other design professionals. The contractual obligations of such professional persons or entities are undertaken and performed in the interest of the Construction Manager at Risk.

§ 3.1.2 The agreements between the Construction Manager at Risk and the persons or entities identified in this Part 2 Agreement, and any subsequent modifications, shall be in writing. These agreements, including financial arrangements with respect to this Project, shall be promptly and fully disclosed to the Owner upon request.

§ 3.1.3 The Construction Manager at Risk shall be responsible to the Owner for acts and omissions of the Construction Manager at Risk's employees, subcontractors and their agents and employees, and other persons, including the Architect and other design professionals, performing any portion of the Construction Manager at Risk's obligations under this Part 2 Agreement.

§ 3.1.4 The standard of care for all design professional and construction services performed as part of the Work shall be the care and skill ordinarily used by members of the profession practicing under similar conditions at the same time and locality of the Project.

§ 3.2 BASIC SERVICES

§ 3.2.1 The Construction Manager at Risk's Basic Services are described below and in **Exhibit A - Construction Manager at Risk's GMP Package** and Article 14 of this Part 2 Agreement.

§ 3.2.2 The Construction Manager at Risk designates Dan Mehls as its representative authorized to act on the Construction Manager at Risk's behalf with respect to the Project.

§ 3.2.3 The Construction Manager at Risk shall submit Construction Documents for review and approval by the Owner in accordance with the Project Schedule within **Exhibit A - Construction Manager at Risk's GMP Package**. Construction Documents may include drawings, specifications, and other documents and electronic data setting forth in detail the requirements for construction of the Work, and shall:

- .1 Develop in greater detail the intent of the Design Documents approved by the Owner under the Part 1 Agreement and as outlined in **Exhibit A- Construction Manager at Risk's GMP Package**;
- .2 Provide information for use by those in the building trades; and
- .3 Include documents customarily required for regulatory agency approvals.

§ 3.2.4 The Construction Manager at Risk shall provide or cause to be provided and shall pay for design services, labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.2.5 The Construction Manager at Risk, with the assistance of the Owner, shall file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

§ 3.2.6 The Construction Manager at Risk shall be responsible for all construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under this Part 2 Agreement.

§ 3.2.7 The Construction Manager at Risk shall keep the Owner informed of the progress and quality of the Work by submission of monthly progress reports including narratives of Disadvantaged Business Enterprise utilization and workforce results, change log narratives, schedule, budget updates, and major issues resolution.

§ 3.2.8 The Construction Manager at Risk shall be responsible for correcting Work which does not conform to the Contract Documents.

§ 3.2.9 The Construction Manager at Risk warrants to the Owner that materials and equipment furnished under this Part 2 Agreement will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the construction will be free from faults and defects, and that the construction will conform with the requirements of the Contract Documents. Construction not conforming to these requirements, including substitutions not properly approved by the Owner, shall be corrected in accordance with Article 9 of this Part 2 Agreement.

§ 3.2.10 Except as otherwise provided herein, the Construction Manager at Risk shall pay all sales, consumer, use and similar taxes which had been legally enacted as of the date of execution of this Part 2 Agreement and shall secure and pay for the building, mechanical and electrical permits; and other permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of a contract for construction and/or are legally required as of the date of execution of this Part 2 Agreement.

§ 3.2.11 The Construction Manager at Risk shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities relating to the Project.

§ 3.2.12 The Construction Manager at Risk shall pay royalties and license fees for patented designs, processes or products used by the Construction Manager at Risk in connection with this project. The Construction Manager at Risk shall defend suits or claims for infringement of patent rights and shall hold the Owner harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular

manufacturer is required by the Owner. However, if the Construction Manager at Risk has reason to believe the use of a required design, process or product is an infringement of a patent, the Construction Manager at Risk shall be responsible for such loss unless such information is promptly furnished to the Owner.

§ 3.2.13 The Construction Manager at Risk shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under this Part 2 Agreement. At the completion of the Work, the Construction Manager at Risk shall remove from the site waste materials, rubbish, the Construction Manager at Risk's tools, construction equipment, machinery, and surplus materials.

§ 3.2.14 The Construction Manager at Risk shall notify the Owner when the Construction Manager at Risk believes that the Work or an agreed upon portion thereof is substantially completed. If the Owner concurs, the Construction Manager at Risk shall issue a Certificate of Substantial Completion which shall establish the Date of Substantial Completion, shall state the responsibility of each party for security, maintenance, heat, utilities, damage to the Work and insurance, shall include a list of items to be completed or corrected and shall fix the time within which the Construction Manager at Risk shall complete items listed therein. Disputes between the Owner and the Construction Manager at Risk regarding the Certificate of Substantial Completion shall be resolved in accordance with the provisions of Article 10.

§ 3.2.15 The Construction Manager at Risk shall maintain at the site for the Owner one record copy of the drawings, specifications, product data, samples, shop drawings, Change Orders and other modifications, in good order and regularly updated to record the completed construction. These shall be delivered to the Owner upon completion of construction and prior to final payment.

§ 3.2.16 The Construction Manager at Risk shall provide the following commissioning services on Project equipment and systems including: preparation of operation and maintenance manuals; training of personnel for operation and maintenance; confirmation of conformance to contract documents; and consultation during initial occupancy and operation.

§ 3.2.17 The Construction Manager at Risk shall coordinate Class I rail work.

§ 3.3 ADDITIONAL SERVICES

§ 3.3.1 The services described in this Section 3.3 are not included in Basic Services unless so identified in Article 14, and they shall be paid for by the Owner as provided in this Part 2 Agreement in addition to the compensation for Basic Services. The services described in this Section 3.3 shall be provided only if authorized or confirmed in writing by the Owner in accordance with the provisions of this Part 2 Agreement.

§ 3.3.2 Making revisions in the drawings, specifications, and other documents or electronic data when such revisions are required by the Building Code officials after approval by the Building Code officials.

§ 3.3.3 Providing consultation concerning replacement of Work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of

such Work, unless such damage is due to the negligent acts or omissions of the Construction Manager at Risk and/or its consultants and subcontractors, employees, or agents of any of them.

§ 3.3.4 Providing services in connection with an arbitration proceeding or legal proceeding, except where the Construction Manager at Risk is a party thereto.

§ 3.3.5 Providing coordination of construction performed by the Owner's own forces or separate contractors employed by the Owner, and coordination of services required in connection with construction performed and equipment supplied by the Owner.

ARTICLE 4 TIME

§ 4.1 Unless otherwise indicated, the Owner and the Construction Manager at Risk shall perform their respective obligations as expeditiously as is consistent with reasonable skill and care and the orderly progress of the Project.

§ 4.2 Time limits stated in the Contract Documents are of the essence. The Work to be performed under this Part 2 Agreement shall commence upon execution of this Part 2 Agreement unless otherwise agreed and, subject to authorized Modifications, Substantial Completion shall be achieved on or before the date established in Article 14.

§ 4.3 Substantial Completion is the stage in the progress of the Work when the Work or a designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

§ 4.4 The Project Schedule is set forth in **Exhibit A - Construction Manager at Risk's GMP Package**.

§ 4.5 If the Construction Manager at Risk is materially delayed at any time in the progress of the Work by a negligent or willful act or omission of the Owner, the Owner's employees, or separate contractors employed by the Owner; or by labor disputes, fire, unusual delay in deliveries, adverse weather conditions not reasonably anticipatable, unavoidable casualties or changes in laws, codes or other regulations or other causes beyond the Construction Manager at Risk's control, or by delay authorized by the Owner pending arbitration, or by other causes which the Owner and the Construction Manager at Risk agree may justify delay, then the Project Schedule shall be reasonably extended by Change Order. Provided that, if the Construction Manager at Risk identifies a negligent or willful act or omission of the Owner, the Owner's employees, or separate contractors employed by the Owner that may cause a material delay in the progress of the Work such that the Construction Manager at Risk will request a change in the Project Schedule, the Construction Manager at Risk shall notify the Owner in writing within a reasonable period after identification. The Owner and the Construction Manager at Risk shall work together in good faith to bring the Project back within the Project Schedule. The Construction Manager at Risk shall not be entitled to an increase in the Project Schedule for any negligent or willful acts or omissions which the Construction Manager at Risk identifies but does not notify the Owner of within a reasonable time after identification.

ARTICLE 5 PAYMENTS

§ 5.1 PROGRESS PAYMENTS

§ 5.1.1 The Owner shall pay the Construction Manager at Risk for self-performed services actually rendered, on a time and material basis, at hourly rates as stated in **Exhibit D to the Part 1 Agreement**; together with approved invoices from its subcontractors, material suppliers, consultants and others up to the GMP.

§ 5.1.2 Based on the Applications for Payment submitted by the Construction Manager at Risk, the Owner shall make progress payments to the Construction Manager at Risk as described in this Article 5, and elsewhere in this Part 2 Agreement.

§ 5.1.3 The Owner will make payment to the Construction Manager at Risk by wire transfer no later than twenty (20) days after receipt of a properly submitted and correct Application for Payment. The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows: The Construction Manager at Risk may request bi-weekly payment for work performed by a subcontractor or supplier, provided the subcontractor or supplier is a certified Disadvantaged Business Enterprise under the Federal Disadvantaged Business Enterprise program, and has established a significant business need to receive payments on a bi-weekly basis. The Owner retains the right to grant or deny the request for bi-weekly payments.

§ 5.1.4 The Application for Payment shall show the percentage of the Work for each portion of the Work and the percentage that each portion of the Work bears to the entire Cost of the Work for which payment is requested.

§ 5.1.5 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 take the portion of the Cost of Work completed through and including the invoiced period using the provisions of **Exhibit A - Construction Manager at Risk's GMP Package**, based on the percentage of Work completed. Changes in the Cost of the Work may not be included in an invoice until the Change Order for the changes has been signed by the parties;
- .2 add the Cost of the Work for materials and equipment furnished by the Construction Manager at Risk and actually incorporated into the Project or delivered and stored at the site for use in the Work, or, if agreed to in advance in writing by the Owner, for materials and equipment suitably stored off site;
- .3 add the amount of the Construction Manager at Risk's Construction Management Fee that equals the percentage of the Cost of the Work that the invoiced amount for the Work bears to the whole Cost of the Work; and
- .4 subtract the aggregate of previous payments made by the Owner and applicable retainage.

§ 5.1.6 Except with the Owner's prior approval, payments for the Cost of the Work for the Construction Manager at Risk's subcontractors shall be subject to a retainage of 5%. There shall be no retainage on Work performed by the Construction Manager at Risk's own labor forces, design fees and expenses, general conditions or the Construction Manager at Risk's Fee.

§ 5.1.7 Neither progress payment nor partial or entire use or occupancy of the Project by the Owner shall constitute an acceptance of Work not in accordance with the Contract Documents.

§ 5.1.8 The Construction Manager at Risk warrants that title to all construction covered by an Application for Payment will pass to the Owner no later than the time of payment. The Construction Manager at Risk further warrants that upon submittal of an Application for Payment all construction for which payments have been received from the Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of the Construction Manager at Risk or any other person or entity performing construction at the site or furnishing materials or equipment relating to the construction.

§ 5.1.9 At the time of substantial completion, the Owner shall pay the Construction Manager at Risk the retainage, if any, less the reasonable cost to correct or complete incorrect or incomplete Work. Final payment of such withheld sum shall be made upon correction or completion of such Work.

§ 5.2 FINAL PAYMENTS

§ 5.2.1 Final Payment, constituting the entire unpaid balance of the Construction Manager at Risk's Fee and the unpaid balance of substantiated and documented Cost of the Work shall be payable by the Owner to the Construction Manager at Risk when:

- .1 the Construction Manager at Risk has fully performed as provided in this Part 2 Agreement except for the Construction Manager at Risk's responsibility to correct Work under this Part 2 Agreement and to satisfy other requirements, if any, which extend beyond final payment;
- .2 a final Certificate for Payment has been received from the Construction Manager at Risk;
- .3 the Construction Manager at Risk has received consent of surety, if any, to final payment;
- .4 as documentation of the final Cost of the Work, the Construction Manager at Risk provides the Owner with a detailed final accounting of all costs applicable to the GMP. In addition, the Construction Manager at Risk shall maintain and, upon request open for inspection by the Owner, its representatives, and the State and other auditors, all accounting records as per this Part 2 Agreement necessary to substantiate all costs applicable to the GMP; and
- .5 the Construction Manager at Risk has submitted a copy of the completed State of Minnesota Form IC-134, signed by the State Commissioner of Taxation.

ARTICLE 6 PROTECTION OF PERSONS AND PROPERTY

§ 6.1 In addition to items identified in **Exhibit B – General Terms and Conditions**, attached hereto and made a part of this Part 2 Agreement, the Construction Manager at Risk shall be responsible for initiating, maintaining and providing supervision of all safety precautions and programs in connection with the performance of this Part 2 Agreement.

§ 6.2 The Construction Manager at Risk shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (1) employees on the Work and other persons who may be affected thereby; (2) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care,

custody, or control of the Construction Manager at Risk or the Construction Manager at Risk's contractors; and (3) other property at or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal relocation or replacement in the course of construction.

§ 6.3 The Construction Manager at Risk shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on the safety of persons or property or their protection from damage, injury or loss.

§ 6.4 The Construction Manager at Risk shall promptly remedy damage and loss (other than damage or loss insured under property insurance provided or required by the Contract Documents) to property at the site caused in whole or in part by the Construction Manager at Risk, a contractor of the Construction Manager at Risk or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

ARTICLE 7 INSURANCE AND BONDS

See Exhibit B - General Terms and Conditions.

ARTICLE 8 CHANGES IN THE WORK

§ 8.1 CHANGES

§ 8.1.1 Changes in the Work may be accomplished after execution of this Part 2 Agreement, without invalidating this Part 2 Agreement, by Change Order, Construction Change Directive, or order for a minor change in the Work, subject to the limitations stated in the Contract Documents. A change in the Work that affects the GMP or the Project Schedule may be made only by Change Order.

§ 8.1.2 A Change Order shall be based upon agreement between the Owner and the Construction Manager at Risk; a Construction Change Directive may be issued by the Owner without the agreement of the Construction Manager at Risk; an order for a minor change in the Work that does not affect the GMP or the Project Schedule may be issued by the Construction Manager at Risk alone.

§ 8.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Construction Manager at Risk shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 8.1.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order or Construction Change Directive that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or the Construction Manager at Risk, the applicable unit prices shall be equitably adjusted.

§ 8.2 CHANGE ORDERS

§ 8.2.1 A Change Order is a written instrument prepared by the Construction Manager at Risk and signed by the Owner and the Construction Manager at Risk, stating their agreement upon all of the following:

- .1 a change in the Work
- .2 the amount of the adjustment, if any, in the GMP; and
- .3 the extent of the adjustment, if any, in the Project Schedule.

§ 8.2.2 No work consistent with the changes in the Change Order shall commence until the Change Order has been reduced to writing and signed by both parties.

§ 8.2.3 Except as otherwise agreed by the Owner and the Construction Manager at Risk, any adjustment to the GMP shall be determined on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including the expenditures for design services and revisions to the Contract Documents. In case of an increase in the GMP, the cost of the increase shall include a Construction Manager at Risk Fee of three and one half percent (3.5%). In such case, the Construction Manager at Risk shall keep and present an itemized accounting together with appropriate supporting data for inclusion in a Change Order. The Construction Manager at Risk shall submit such Change Order requests on a monthly basis. Unless otherwise provided in the Contract Documents, costs for these purposes shall be limited to the following:

- .1 costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .2 costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .3 rental costs of machinery and equipment exclusive of hand tools, whether rented from the Construction Manager at Risk or others;
- .4 costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes;
- .5 additional costs of supervision and field office personnel directly attributable to the change; and
- .6 fees paid to the Architect, engineers and other professionals.

§ 8.2.4 Pending final determination of cost to the Owner, amounts not in dispute may be included in Applications for Payment. The amount of credit to be allowed by the Construction Manager at Risk to the Owner for deletion or change which results in a net decrease in the GMP will be actual net cost. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change.

§ 8.2.5 When the Owner and the Construction Manager at Risk agree upon the adjustments in the GMP and Project Schedule, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

§ 8.2.6 If the Owner requests a proposal for a change in the Work from the Construction Manager at Risk that does not fall within the general scope of this Part 2 Agreement and subsequently elects not to proceed with the change, a Change Order shall be issued to reimburse the Construction Manager at Risk for any costs incurred for estimating services, design services or preparation of proposed revisions to the Contract Documents.

§ 8.3 CONSTRUCTION CHANGE DIRECTIVES

§ 8.3.1 A Construction Change Directive is a written order prepared and signed by the Owner, directing a change in the Work prior to agreement on adjustment, if any, in the GMP or Project Schedule, or both.

§ 8.3.2 Any adjustment to the GMP and/or Project Schedule shall be made using a Charge Order in accordance with the provisions of § 8.2. of this Part 2 Agreement.

§ 8.4 MINOR CHANGES IN THE WORK

§ 8.4.1 The Construction Manager at Risk shall have authority to make minor changes in the Construction Documents and construction consistent with the intent of the Contract Documents when such minor changes do not involve adjustment in the GMP or extension of the Project Schedule. The Construction Manager at Risk shall promptly inform the Owner, in writing, of minor changes in the Construction Documents and construction.

§ 8.5 CONCEALED CONDITIONS

§ 8.5.1 If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents, or (2) unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then written notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than 5 days after first observance of the conditions. Upon timely notice in writing by the observing party to the other party, the Owner and the Construction Manager at Risk will engage in value analysis will value engineer the Project to stay within the GMP and to address the concealed conditions; the actions to be taken and the responsibility for costs of such actions shall be mutually agreed to by the parties. Alternatively, the parties may agree to modify the GMP, in which case the parties shall execute a Change Order. If the Construction Manager at Risk fails to give notice within the 5 day time period after first observance of the conditions by the Construction Manager at Risk, the Owner reserves the right to demand and receive services from the Construction Manager at Risk to address and correct such concealed conditions without additional cost to the Owner.

§ 8.6 REGULATORY CHANGES

§ 8.6.1 The Construction Manager at Risk shall be compensated for changes in the Work necessitated by the enactment or revisions of codes, laws or regulations that are made applicable to the Project subsequent to the date the permits are issued and its time for performance shall be extended if the change(s) result in delay to the Project Schedule. Such changes shall be made by Change Order pursuant to this Article 8.

ARTICLE 9 CORRECTION OF WORK

§ 9.1 The Construction Manager at Risk shall, within the timeframes set forth in Section 9.3 below, promptly correct Work rejected by the Owner or known by the Construction Manager at Risk to be defective or failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Construction Manager at Risk shall bear the costs of correcting such rejected, defective, or non-conforming Work, including additional testing and inspections.

§ 9.2 If the Construction Manager at Risk defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within seven (7) days after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may give a second written notice to the Construction Manager at Risk and, seven (7) days following receipt by the Construction Manager at Risk of that second written notice and without prejudice to other remedies the Owner may have, correct such deficiencies. The Owner shall deduct from payments then or thereafter due the Construction Manager at Risk, the costs of correcting such deficiencies. If the payments then or thereafter due the Construction Manager at Risk are not sufficient to cover the amount of the deduction, the Construction Manager at Risk shall pay the difference to the Owner. Such action by the Owner shall be subject to dispute resolution procedures as provided in Article 10.

§ 9.3 If, within one (1) year after the date of Substantial Completion of the Work of this Part 2 Agreement, or after the date for commencement of warranties established in a written agreement between the Owner and the Construction Manager at Risk, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Construction Manager at Risk shall correct it promptly at its own cost after receipt of a written notice from the Owner to do so unless the Owner has previously given the Construction Manager at Risk a written acceptance of such condition. Manufacturers' and/or extended warranties shall be assigned to the Owner, and the Owner will be responsible for administration of same beyond this one (1) year period; provided, however, that the assignment shall be non-exclusive and shall not prejudice the Construction Manager at Risk's right to enforce the warranties.

§ 9.4 Nothing contained in this Article 9 shall be construed to establish a period of limitation with respect to other obligations which the Construction Manager at Risk might have under the Contract Documents. Establishment of the time period of one (1) year as described in Section 9.2 relates only to the specific obligation of the Construction Manager at Risk to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Construction Manager at Risk's liability with respect to the Construction Manager at Risk's obligations other than specifically to correct the Work.

§ 9.5 If the Construction Manager at Risk fails to correct nonconforming Work as required or fails to carry out Work in accordance with the Contract Documents, the Owner may give the Construction Manager at Risk a written order to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the Owner's right to stop the Work shall not give rise to a duty on the part of the Owner to exercise the right for the benefit of the Construction Manager at Risk or other persons or entities.

ARTICLE 10 DISPUTE RESOLUTION – MEDIATION AND ARBITRATION

§ 10.1 Claims, disputes or other matters in question between the parties to this Part 2 Agreement arising out of or relating to this Part 2 Agreement may be subject to mediation or arbitration only if agreed to in writing by both parties.

ARTICLE 11 MISCELLANEOUS PROVISIONS

§ 11.1 Unless otherwise provided, this Part 2 Agreement shall be governed by the laws of Minnesota.

§ 11.2 SUBCONTRACTS

§ 11.2.1 The Construction Manager at Risk shall bid out the Work in multiple bid packages, as agreed to by the parties. The Construction Manager at Risk shall use a competitive sealed bid process. The Construction Manager at Risk may self-perform without bidding such Work as **TBD**. The Construction Manager at Risk will not self-perform any other Work with its own forces without prior written approval from the Owner. The cost of such Work shall be calculated using the Unit Prices for the Construction Manager at Risk as listed in **Exhibit D** to the Part 1 Agreement.

§ 11.2.2 All bids received for the Project will be publicly opened in the presence of the Owner. The Construction Manager at Risk shall provide the Owner a copy of all bids and will review the bids with the Owner. Bids will be reviewed and tabulated, and contracts awarded, in accordance with the provisions of Title 23 CFR. The Construction Manager at Risk shall provide the Owner a copy of its subcontractor contract template

§ 11.2.3 The Construction Manager at Risk shall meet the Project Goals set forth in **Exhibit C - DBE Utilization and Labor Goals**, attached hereto and make a part of this Part 2 Agreement.

§ 11.2.4 The Construction Manager at Risk shall not enter into a subcontract agreement or utilize as a subcontractor a vendor to which the Owner has reasonable objection. In the event that the cost of the replacement subcontractor or vendor is higher than the vendor objected to by the Owner, the Owner shall be obligated to pay the Construction Manager at Risk by Change Order, in accordance with Article 8, for any additional cost incurred as a result of the change, provided the original subcontractor selected by the Construction Manager at Risk was the lowest, qualified, responsible bidder.

§ 11.2.5 Prior to execution of this Agreement, the Construction Manager at Risk will secure a Project Labor Agreement directly with the St. Paul Building & Construction Trades Council, and the County shall agree to comply with the Project Labor Agreement as executed.

§ 11.3 WORK BY OWNER OR OWNER'S CONTRACTORS

§ 11.3.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site. If the Construction Manager at Risk claims that delay or additional cost is involved because of such action by the Owner, the Construction Manager at Risk shall assert such claims as provided in Section 11.4.

§ 11.3.2 The Construction Manager at Risk shall afford the Owner's separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the Construction Manager at Risk's construction and operation with the Owner's contractors as required by the Contract Documents.

§ 11.3.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefore.

§ 11.4 CLAIMS FOR DAMAGES

§ 11.4.1 If either party to this Part 2 Agreement suffers injury or damage to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a claim of additional cost or time related to this claim is to be asserted, it shall be made in writing in the form of a Request for Change Order.

§ 11.5 INDEMNIFICATION

See **Exhibit B – General Terms and Conditions.**

§ 11.6 SUCCESSORS AND ASSIGNS

§ 11.6.1 This Part 2 Agreement shall be binding on successors and legal representatives and persons in privity of contract with the Owner or the Construction Manager at Risk. Neither party shall assign, sublet or transfer an interest in this Part 2 Agreement without the prior written consent of the other.

§ 11.7 TERMINATION OF PROFESSIONAL DESIGN SERVICES

§ 11.7.1 Prior to termination of the services of the Architect or any other design professional designated in this Part 2 Agreement by the Construction Manager at Risk, the Construction Manager at Risk shall identify to the Owner in writing another architect or other design professional with respect to whom the Owner has no reasonable objection, who will provide the services originally to have been provided by the Architect or other design professional whose services are being terminated, provided that the Owner shall have no obligation to pay for any costs the Construction Manager at Risk may incur as a result of the change.

§ 11.8 EXTENT OF AGREEMENT

§ 11.8.1 This Part 2 Agreement represents the entire agreement between the Owner and the Construction Manager at Risk with respect to the scope covered herein and supersedes prior negotiations, representations or agreements, either written or oral. This Part 2 Agreement may be amended only by written instrument and signed by both the Owner and the Construction Manager at Risk. To the extent there are any inconsistencies between this Part 2 Agreement and the Part 1 Agreement between the parties, the order of precedence outlined in Section 1.1.1 shall apply.

§ 11.8.2 HAZARDOUS MATERIALS

§ 11.8.2.1 The Construction Manager at Risk is responsible for any accessible Hazardous Materials encountered at the site, in accordance with Article 7.3 of the Part 1 Agreement, consistent with the scope and cost of any identified remediation work identified and included in **Exhibit A – Construction Manager at Risk's GMP Package.** Inaccessible materials will be left in place.

§ 11.9 CLAIMS FOR CONSEQUENTIAL DAMAGES

§ 11.9.1 The Construction Manager at Risk and the Owner waive claims against each other for consequential damages arising out of or relating to this Part 2 Agreement. This mutual waiver includes:

- .1 damages incurred by the Owner for losses of profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Construction Manager at Risk for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from Work performed; and
- .3 damages incurred by the Construction Manager at Risk as a result of the Owner's loss of Project funding.

In addition, this mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with the terms of this Part 2 Agreement.

ARTICLE 12 TERMINATION OF THE AGREEMENT

§ 12.1 TERMINATION BY THE OWNER

§ 12.1.1 If the Construction Manager at Risk defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents or fails to perform the provisions of this Part 2 Agreement, the Owner may give written notice that the Owner intends to terminate this Part 2 Agreement. If the Construction Manager at Risk fails to correct the defaults within seven (7) days after being given notice, the Owner may then give a second written notice and, after an additional seven (7) days, the Owner may without prejudice to any other remedy terminate this Part 2 Agreement and take possession of the site and of all materials and finish the Work by whatever method the Owner may deem expedient. If the unpaid balance of the GMP exceeds the expense of finishing the Work and all damages incurred by the Owner, such excess shall be paid to the Construction Manager at Risk. If the expense of completing the Work and all damages incurred by the Owner exceeds the unpaid balance, the Construction Manager at Risk shall pay the difference to the Owner. This obligation for payment shall survive termination of this Part 2 Agreement.

§ 12.1.2 The Owner may terminate this Part 2 Agreement without cause and for any reason whatsoever upon giving at least ten (10) days written notice to the Construction Manager at Risk. In such event, the Construction Manager at Risk shall receive compensation for services provided in a satisfactory manner in accordance with this Part 2 Agreement up to and including the effective date of termination.

§ 12.1.3 This Part 2 Agreement may be terminated by the Owner upon immediate written notice to the Construction Manager at Risk in the event that the Project is abandoned. If such termination occurs, the Owner shall pay the Construction Manager at Risk for Work completed and for proven loss sustained upon materials, equipment, tools, construction equipment and machinery.

§ 12.1.4 Any termination by the Owner shall be without prejudice to the rights of the Owner to pursue other remedies against the Construction Manager at Risk.

§ 12.2 TERMINATION BY THE CONSTRUCTION MANAGER AT RISK

§ 12.2.1 If the Owner persistently fails to make payment of undisputed amounts, the Construction Manager at Risk may give written notice of the Construction Manager at Risk's intention to terminate this Part 2 Agreement, giving the specific reasons therefore. If the Construction Manager at Risk fails to receive payment of the undisputed amounts within seven (7) days after receipt of such notice by the Owner, the Construction Manager at Risk may give a second written notice and, seven (7) days after receipt of such second written notice by the Owner, may terminate this Part 2 Agreement. If such termination occurs, the Owner shall pay the Construction Manager at Risk for Work completed in a satisfactory manner up to and including the effective date of termination. A good faith dispute by the Owner regarding the amount of payment and failure to pay disputed amounts, which is subject to the provisions of the Minnesota Prompt Payment Act, does not constitute grounds for termination by the Construction Manager at Risk under this paragraph.

ARTICLE 13 BASIS OF COMPENSATION

The Owner shall compensate the Construction Manager at Risk in accordance with Article 5, Payments, and the other provisions of this Part 2 Agreement as described below.

§ 13.1 COMPENSATION

§ 13.1.1 The sum of the Construction Manager at Risk's Compensation for Basic Services under the Part 1 Agreement, the Cost of Work under this Part 2 Agreement, and the Construction Manager at Risk's fee under this Part 2 Agreement, is guaranteed not to exceed the amount stated in **Exhibit A - Construction Manager at Risk's GMP Package**, subject to additions and deductions by Change Order as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price ("GMP"). See **Exhibit A - Construction Manager at Risk's GMP Package** for the Construction Manager at Risk's GMP documents. However, the Construction Manager at Risk shall be bound only by the GMP and not by cost estimates for various categories or line items of work comprising the GMP. Except as otherwise provided in this Part 2 Agreement, costs which would cause the GMP to be exceeded, that are not the result of a change in scope, shall be paid by the Construction Manager at Risk without reimbursement by the Owner. At Project completion one hundred percent (100%) of savings in the Cost of the Work will accrue to the Owner.

§ 13.1.2 The Construction Manager at Risk's Fee is the lump sum amount identified in **Exhibit A - Construction Manager at Risk's GMP Package**, to be to be paid to the Construction Manager at Risk in twenty-four (24) equal monthly payments, with each payment made as part of the monthly Application for Payment.

§ 13.1.3 The GMP includes the Construction Manager at Risk's contingency, a sum established by the Construction Manager for the Construction Manager at Risk's exclusive use to cover costs arising from incomplete designs and specifications and other costs which are properly reimbursable as Cost of the Work but not the basis for a Change Order. The Owner acknowledges that the estimating process is not exact and the Construction Manager at Risk's contingency is intended to cover inaccuracies in the quantities and prices in the estimate, and unanticipated items which may not have been taken into account in the establishment of the GMP, including, but not limited to: (a) unfavorable bidding from trade contractors due to

market conditions, price increases, lack of competition and other variables; (b) default by the Construction Manager at Risk's subcontractors or suppliers; (c) costs of corrective work not provided for elsewhere; (d) labor disputes; and (e) other conditions which result in an increase in the Cost of the Work, without increasing the GMP. The Construction Manager's contingency shall not be used for changes in the Work or unforeseen conditions. The Construction Manager at Risk's contingency shall not be used for costs for which the Construction Manager at Risk is entitled to an increase in the GMP pursuant to the Contract Documents.

§ 13.2 COST OF THE WORK

§ 13.2.1 The term Cost of the Work shall mean the actual costs for the items described in Sections 13.2 through 13.7 necessarily incurred by the Construction Manager at Risk in the proper performance of the Work. The Cost of the Work shall include only the items set forth in this Article 13. Specifically, any fines imposed on the Construction Manager at Risk and/or the Owner due to the Work performed by the Construction Manager at Risk shall not be considered a Cost of the Work and shall not be paid as part of the GMP, but shall be paid separately and directly by the Construction Manager at Risk.

§ 13.3 LABOR COSTS

§ 13.3.1 Wages of construction workers directly employed by the Construction Manager at Risk to perform the construction of the Work at the site or, with the Owner's approval, at off-site workshops, reimbursable at the rates established in **Exhibit D to the Part 1 Agreement**, as further described in Section 9.4 of the Part 1 Agreement.

§ 13.3.2 Wages or salaries of the Construction Manager at Risk's supervisory and administrative personnel shall be reimbursed for time spent performing services for the Project at the rates listed in **Exhibit A**.

§ 13.3.3 Labor Burden: The rate to be charged for the cost of WORKERS COMPENSATION, FICA, STATE UNEMPLOYMENT and FEDERAL UNEMPLOYMENT shall be **TBD** of all Wages and benefits. The rates and labor burden will be adjusted annually on **TBD**.

§ 13.3.4 Costs paid or incurred by the Construction Manager at Risk for taxes, insurance, contributions, assessments and benefits required by laws or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, all of which are included in the rates listed in **Exhibit D to the Part 1 Agreement**, as further described in Section 9.4 of the Part 1 Agreement.

§ 13.3.5 For work performed by Construction Manager at Risk's own forces, the Construction Manager at Risk shall be compensated on the basis of the Cost of the Work, using, when applicable, the rates for the Construction Manager at Risk as listed in **Exhibit D of the Part 1 Agreement**, plus a fee of **TBD** of the Cost of that Work, which is inclusive of all burdened labor, materials, equipment, subcontractors and general conditions costs required to directly support the Construction Manager at Risk's self-performed operations.

§ 13.4 SUBCONTRACT AND DESIGN PROFESSIONAL COSTS

§ 13.4.1 NA

§ 13.5 COSTS OF MATERIALS AND EQUIPMENT INCORPORATED IN THE COMPLETED CONSTRUCTION

§ 13.5.1 Costs, including transportation and storage, of materials and equipment either secured on site or incorporated in the completed construction.

§ 13.5.2 Costs of materials described in the preceding subparagraph in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work, or, at the Owner's option shall be sold by the Construction Manager at Risk. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 13.6 COSTS OF OTHER MATERIALS AND EQUIPMENT, TEMPORARY FACILITIES, AND RELATED ITEMS

§ 13.6.1 Costs, including transportation and storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at Risk at the site and fully consumed in the performance of the Work; and cost (less salvage value) of such items if not fully consumed, whether sold to others or retained by the Construction Manager at Risk. Cost for items previously used by the Construction Manager at Risk shall mean fair market value.

§ 13.6.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at Risk at the site whether rented from the Construction Manager at Risk or others, and costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof. The Construction Manager at Risk's equipment shall be reimbursed at the rates listed in **Exhibit D to the Part 1 Agreement**. Expendable tools and minor equipment, defined as any tool or equipment of a value of less than \$TBD, shall be purchased as a Cost of the Work by the Construction Manager at Risk and turned over to the Owner at Project completion. Use of equipment not owned by the Construction Manager at Risk shall be charged at actual invoice amount.

§ 13.6.3 Costs of removal of debris from the site.

§ 13.6.4 Costs of the following for each of the two site offices: document reproductions, facsimile transmissions and long-distance telephone calls; messengers; postage and parcel delivery charges; office supplies; offsite parking; telephone service; and reasonable petty cash expenses.

§ 13.6.5 That portion of the reasonable expenses of the Construction Manager at Risk's primary personnel incurred while traveling in discharge of duties connected with the Work and in accordance with the County's travel policy.

§ 13.6.6 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, if approved in advance by the Owner.

§ 13.6.7 Airfare and hotel expenditures for travel while in discharge of duties connected with

the Work, provided the Owner approves of such expenditures in advance.

§ 13.7 MISCELLANEOUS COSTS

§ 13.7.1 Sales, use or similar taxes imposed by governmental authority that are related to the Work.

§ 13.7.2 Fees and assessments for the building permit and for other permits, licenses and inspections which the Construction Manager at Risk is required by the Contract Documents to pay.

§ 13.7.3 Deposits lost for causes other than for the Construction Manager at Risk's negligence or failure to fulfill a specific responsibility to the Owner as set forth in the Contract Documents.

§ 13.7.4 Legal, mediation and arbitration costs, including attorney's fees, other than those arising from disputes between the Owner and the Construction Manager at Risk, reasonably incurred by the Construction Manager at Risk in the performance of the Work, with the Owner's prior written approval, which shall not be unreasonably withheld.

§ 13.7.5 Data processing costs shall be **TBD**.

§ 13.7.6 Rent **TBD**.

§ 13.7.7 Other costs incurred in the performance of the Work if and to the extent approved in advance in writing by the Owner. The Cost of the Work includes contingencies as stated in **Exhibit A**.

§ 13.7.8 Costs for repairing or correcting damaged or nonconforming Work executed by the Construction Manager at Risk, its subcontractors or suppliers, provided that such damage or nonconforming Work was not caused by negligence, failure to fulfill a specific responsibility, or failure to perform Work in accordance with industry standards of the Construction Manager at Risk, its subcontractors or suppliers, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager at Risk from insurance, sureties, subcontractors or suppliers.

§ 13.7.9 Costs for bonds and insurance which the Construction Manager at Risk is required by this Part 2 Agreement to purchase and maintain, or which the Construction Manager at Risk deems necessary for the prosecution of the Work, and the cost of subcontractors' payment and performance bonds required under their subcontracts with the Construction Manager at Risk. Errors & Omissions, primary comprehensive general, automobile, umbrella/excess liability, and pollution shall be reimbursed at a fixed rate, billed each month, of \$xxx per thousand dollars of **TBD**. Rates shall be subject to annual adjustments if required by the Construction Manager at Risk's insurance carrier. Insurance deductibles or the cost of the Construction Manager at Risk's insurance for the deductibles are included in the Cost of the Work. Construction Manager at Risk's Performance and Payment Bonds will be paid as a lump sum as a Cost of the Work calculated at \$xxx per \$1,000 of the **TBD** based on a 24 month construction schedule.

§ 13.7.10 Costs due to emergencies incurred in taking action to prevent threatened damage,

injury or loss in case of an emergency affecting the safety of persons and property.

§ 13.7.11 Cash discounts obtained on payments made by the Construction Manager at Risk shall accrue to the Owner if (1) before making payment, the Construction Manager at Risk included them in an Application for Payment and received payment therefore from the Owner, or (2) the Owner has deposited funds with the Construction Manager at Risk with which to make payments; otherwise cash discounts shall accrue to the Construction Manager at Risk. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager at Risk shall make provisions so that they can be secured.

§ 13.7.12 Amounts that accrue to the Owner in accordance with the provisions of the previous paragraph shall be credited to the Owner as a deduction from the Cost of the Work.

§ 13.7.13 Other miscellaneous costs including: Construction Manager at Risk's Zero Injuries program, builder's risk deductibles, Transition to Stabilized Occupancy ("TSO") services and reimbursables. **TBD**

§ 13.7.13 Costs incurred by the Construction Manager at Risk while promoting, supporting, and administering the Project's comprehensive safety, labor relations, and community relations programs, that are directly attributable to the Project, subject to the prior approval of the Owner. **TBD**

ARTICLE 14 OTHER CONDITIONS AND SERVICES

§ 14.1 A Schedule of Alternates is included in **Exhibit A – Construction Manager at Risk's GMP Proposal**. The parties shall execute a Change Order pursuant to Section 8.2 of this Part 2 Agreement to incorporate any Alternate into the Project.

§14.2 Disputes and calculation of interest shall be subject to the provisions of Minn. Stat. Section 471.425, the Minnesota Prompt Pay Law.

§14.3 The Construction Manager at Risk shall commence providing services upon final execution of this Part 2 Agreement. The date of Substantial Completion for the Project is **TBD**.

§14.4 This Part 2 Agreement includes the following:
EXHIBIT A – Construction Manager at Risk's GMP Package
EXHIBIT B – General Terms and Conditions
EXHIBIT C – DBE Utilization and Labor Goals

§ 14.5 All notices to be given to the parties shall be sent by first class mail, postage applied to or made at:

Owner's Representative: Timothy Mayasich, Director
Ramsey County Regional Railroad Authority
50 West Kellogg Blvd.
Suite 6560
St. Paul, MN 55101

and to: Jolly Mangine, Director
Ramsey County Property Management
50 West Kellogg Blvd., Suite 600
St. Paul, MN 55102-1674

Construction Manager at Risk's Representative:

Dan Mehls, Director of Project Development
M. A. Mortenson Company
700 Meadow Lane North
Minneapolis, MN 55422

and to: Dwight Larson, Vice President and Senior Counsel
M. A. Mortenson Company
700 Meadow Lane North
Minneapolis, MN 55422

If the name and/or address of the above-identified representatives changes, notice of such change shall be given to the other party in accordance with the provisions of this section.

This Part 2 Agreement is entered into as of the last date written below.

OWNER:

**RAMSEY COUNTY REGIONAL RAILROAD
AUTHORITY**

Jim McDonough, Chair
Ramsey County Regional Railroad Authority

Bonnie Jackelen, Chief Clerk
Ramsey County Regional Railroad Authority

Date: _____

Approval recommended:

Timothy Mayasich, Director
Ramsey County Regional Railroad Authority

Julio Mangine, Director
Department of Property Management

CONSTRUCTION MANAGER AT RISK:

M. A. MORTENSON COMPANY

By: _____
Print Name: Ken Sorensen
Title: Vice President

Date: _____

Approved as to form and insurance:

Assistant County Attorney

Purchase Order or
Aspen Vendor Contract Number:

Funds are Available

Account Number: _____

Budgeting and Accounting

DRAFT

Construction Manager at Risk's GMP Package

DRAFT

GENERAL TERMS AND CONDITIONS

1. Non-Assignability

The Construction Manager at Risk shall not assign any interest in this Part 2 Agreement and shall not transfer any interest in the same, whether by subcontract, assignment or novation, without the prior written consent of the Owner.

2. Indemnification

The Construction Manager at Risk shall indemnify, hold harmless and defend the Owner and Ramsey County, their officials, agents, and employees against any and all liability, losses, costs, damages, expenses, claims or actions, including attorney's fees, which the Owner or Ramsey County, their officials, agents, or employees may hereafter sustain, incur or be required to pay, to the extent arising out of or by reason of any negligent or willful act or omission of the Construction Manager at Risk, its officials, subcontractors, or agents, or the employees of any of them, or by anyone for whose acts or omissions anyone of them may be liable, in the execution, performance, or failure to perform the Construction Manager at Risk's obligations in accordance with the provisions of this Part 2 Agreement.

3. Alteration

Any alteration, variation, modification, or waiver of the provisions of this Part 2 Agreement shall be valid only after it has been reduced to writing and duly signed by both parties.

4. Independent Contractor

It is agreed that nothing contained in this Part 2 Agreement is intended or should be construed as creating the relationship of agents, partners, joint venturers, or associates between the parties hereto or as constituting the Construction Manager at Risk as the employee of the Owner for any purpose or in any manner whatsoever. The Construction Manager at Risk is an independent contractor and neither it, its employees, agents, nor representatives are employees of the Owner. From any amounts due the Construction Manager at Risk, there will be no deductions for federal income tax or FICA payments, nor for any state income tax, nor for any other purposes which are associated with an employer-employee relationship unless required by law. Payment of federal income tax, FICA payments, and state income tax are the responsibility of the Construction Manager at Risk.

5. Insurance and Bonds

a. Construction Manager at Risk Insurance

- 1) The Construction Manager at Risk shall purchase and maintain such insurance as will protect the Construction Manager at Risk from claims which may arise out of, or result from, the Construction Manager at Risk's operations under this Part 2 Agreement, whether such operations are by the Construction Manager at Risk or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or

omissions any one of them may be liable.

- 2) The Construction Manager at Risk shall secure the following coverages and comply with all provisions noted. Certificates of Insurance shall be issued evidencing such coverage to the Owner throughout the term of this Part 2 Agreement and five years beyond project completion for products and completed operations coverage.
 - 2.1) Commercial General Liability Insurance
 - 2.1.1) Per Occurrence Limit: \$1,000,000
General Aggregate Limit (per project): \$2,000,000
Products/completed operations total limit: \$2,000,000
Personal injury and advertising: \$1,000,000
 - 2.1.2) All policies shall be written on an occurrence basis using ISO form CG 00 01 or the equivalent.
 - 2.1.3) The Owner and Ramsey County, their officials, employees, and agents, shall be added to the policy as additional insured on a primary basis with respect to the ongoing and completed operations of the Construction Manager at Risk, using ISO endorsement forms CG 20 10 and CG 20 37 or equivalents.
 - 2.1.4) Products and completed operations coverage shall be provided for five years after final payment.
 - 2.2) Automobile Insurance
 - 2.2.1) Coverage shall be provided for hired, non-owned and owned auto.
 - 2.2.2) \$1,000,000 combined single limit.
 - 2.3) Workers' Compensation and Employer's Liability
 - 2.3.1) Workers' Compensation as required by Minnesota Statutes
 - 2.3.2) Employer's Liability Limits:
\$500,000/\$500,000/\$500,000
 - 2.4) Umbrella Liability
 - 2.4.1) \$50,000,000 per occurrence
\$50,000,000 general aggregate
 - 2.4.2) The Owner and Ramsey County, their officials, employee, and agents, shall be an additional insured as required under the Commercial Umbrella Liability policy.
 - 2.4.3) The policy will provide excess coverage over the commercial

general liability and automobile liability policies.

- 2.5) Contractor's Pollution Liability insurance to cover any remedial and/or cleanups, suits, judgments, claims, and/or actions of any type that may arise out of or result from the Work contemplated by this Part 2 Agreement. Such coverage shall include the Work performed on behalf of the Construction Manager at Risk by the subcontractors. The Owner, Ramsey County, their officials, employees, and agents will be included as additional insureds. The cost for such insurance shall be included in the GMP and itemized separately without any mark up.
 - 2.5.1) \$5,000,000 per claim
\$10,000,000 aggregate
 - 2.5.2) Certificate of Insurance must indicate if the policy is issued on a claims-made or occurrence basis. If coverage is carried on a claims-made basis, then: 1) the retroactive date shall be noted on the Certificate and shall be prior to or the day of the inception of this Part 2 Agreement; and 2) evidence of coverage shall be provided for five years beyond expiration of this Part 2 Agreement.
- 2.6) Professional Liability/Errors and Omissions Coverage
 - 2.6.1) \$10,000,000 per claim
\$10,000,000 aggregate
 - 2.6.2) All policies shall be written as acceptable to the Owner.
 - 2.6.3) Certificate of Insurance must indicate if the policy is issued on a claims-made or occurrence basis. If coverage is carried on a claims-made basis, then: 1) the retroactive date shall be noted on the Certificate and shall be prior to or the day of the inception of this Part 2 Agreement; and 2) evidence of coverage shall be provided for five years beyond expiration of this Part 2 Agreement.
- 2.7) Property Insurance
If the Owner incurs damage to or loss of property as a result of the negligent acts or omissions of the Construction Manager at Risk, its subcontractors, and/or sub-subcontractors, the Construction Manager at Risk is responsible for the deductible provided for under the Owner's property coverage and all other costs and losses related to the Project Work not covered by the Owner's property insurance. Such deductible shall not exceed \$50,000 per occurrence.
- 2.8) Where the contract requires work to be performed on or near the right-of-way of a railroad, the Construction Manager at Risk shall provide such insurance as the railroad company may require. The cost for such

insurance shall be included in the GMP and itemized separately without any mark up.

- 3) All Certificates of Insurance shall provide that the insurance company gives the Construction Manager at Risk thirty (30) days prior written notice of cancellation, or non-renewal of such policy. The Construction Manager at Risk will in turn notify the Owner.
- 4) The above paragraphs establish minimum insurance requirements, and it is the sole responsibility of the Construction Manager at Risk to purchase and maintain additional insurance that may be necessary in connection with this Part 2 Agreement.
- 5) Certificates of Insurance must indicate if the policies are issued pursuant to these requirements. The Construction Manager at Risk shall not commence work until the Construction Manager at Risk has obtained the required insurance and filed an acceptable Certificate of Insurance with the Owner. Copies of insurance policies to which Owner has been named an Additional Insured shall be submitted to the Owner upon request.
- 6) Nothing in this Part 2 Agreement shall constitute a waiver by the Owner of any statutory or common law immunities, limits, or exceptions on liability.
- 7) Certificates shall specifically indicate if the policy is written with an admitted or non-admitted carrier. Best's Rating for the insurer(s) shall be noted on the certificate, and shall be no less than an A.

b. Owner Insurance

- 1) The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance and/or self-insurance program.
- 2) Property Insurance
 - 2.1) The Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on an "all risk" or equivalent policy form to the full insurable value of the Project on a replacement cost basis, covering the building and the materials on site used for the renovation but excluding tools and equipment owned by the Construction Manager at Risk and/or its subcontractors.
 - 2.2) The Owner shall include the Construction Manager at Risk and its subcontractors or any tier as an additional insured on the property insurance as its interest may appear and shall furnish to the Construction Manager at Risk one copy of the Certificates of Insurance which shall specifically set forth evidence of coverage

required by this subparagraph.

- 2.3) Property insurance shall cover risks of direct physical loss unless the loss is limited by coverage form or caused by a peril excluded, and shall include insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, terrorism, rigging and hoisting, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the Construction Manager at Risk's services and expenses required as a result of such insured loss. The insurance shall also cover portions of the Work stored off site, and also portions of the Work in transit. Owner shall provide a copy of the policy upon request of Construction Manager at Risk.
- 2.4) A loss insured under the insurance required by this section shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear. The Construction Manager at Risk shall pay Subcontractors their just shares of insurance proceeds received by the Construction Manager at Risk, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.
- 2.5) The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved by arbitration if agreed to by both parties. The Owner as fiduciary shall, in the case of arbitration, make settlement with insurers in accordance with directions of the arbitrators. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.
- 2.6) If during the construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance, or if after final payment property insurance is to be provided on the completed Project, the Owner shall waive all rights in accordance with the terms of paragraph 2.7) for damages caused by fire or other causes of loss covered by this separate property insurance. All policies shall provide this waiver of subrogation by endorsement or otherwise.
- 2.7) The Owner and the Construction Manager at Risk waive all rights (1) against each other and any of their subcontractors of any tier,

agents and employees, each of the other, and (2) separate contractors, if any, and any of their subcontractors of any tier, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Part 2 Agreement or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Construction Manager at Risk shall require from its subcontractors of any tier similar waivers each in favor of the parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

c. Bonds

- 1) The Construction Manager at Risk shall furnish bonds as described below, covering the faithful performance of this Part 2 Agreement and the payments of all obligations arising thereunder. This Part 2 Agreement will not be signed until the Owner has received the proper bonds specified under this Article, issued by a bonding company licensed to do business in Minnesota, and on the current list of Companies Holding Certificates of Authority as acceptable Sureties on Federal Bonds and as acceptable reinsuring companies as published in Circular 570 (Amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department. All bonds signed by an agent must be accompanied by a certified copy of the authority to act.
- 2) Furnish both a performance bond and a payment bond on forms specified by the Owner in the RFP dated September 28, 2009, each in the amount of 100% of the **TBD**.
- 3) The Performance Bond and Payment Bond shall be submitted in the exact form specified by the Owner and no other modifications or addenda whatsoever shall be allowed.
- 4) Duly executed, notarized and updated Acknowledgments of both the Principal and Surety and the Surety's Power of Attorney must be attached to each of the two required bonds.
- 5) Bond amounts shall not exceed the single bond limit for the Construction Manager at Risk's bonding company as set forth in the Federal Register current as of the proposer submission date.

6. Safety Compliance

- a. In addition to the provisions of Section 6 of this Part 2 Agreement, the Construction Manager at Risk and all subcontractors shall acknowledge that they are in compliance and responsible for any conditions imposed upon the Owner by OSHA requirements.
- b. The Construction Manager at Risk acknowledges that a risk control program will be implemented on site during this project.

7. Non-Conforming Services

The acceptance by the Owner of any non-conforming services under the terms of this Part 2 Agreement or the foregoing by the Owner of any of the rights or remedies arising under the terms of this Part 2 Agreement shall not constitute a waiver of the Owner's right to conforming services or any rights and/or remedies in respect to any subsequent breach or default of the terms of this Part 2 Agreement. The rights and remedies of the Owner provided or referred to under the terms of this Part 2 Agreement are cumulative and not mutually exclusive.

8. Waste Reduction

The Construction Manager at Risk shall participate in a recycling program for at least four broad types of recyclable materials and shall favor the purchase of recycled products in its procurement processes. All reports, publications and documents produced as a result of this contract shall be printed on both sides of the paper, where commonly accepted publishing practices allow, on recycled and recyclable paper using soy-based inks, and shall be bound in a manner that does not use glue.

9. Setoff

The Owner may withhold payment to the Construction Manager at Risk for the purpose of setoff of the reasonable estimate of the amount of damages incurred by the Owner as a result of the Construction Manager at Risk's actual breach of this Agreement, until such time as the exact amount of damages due the Owner from the Construction Manager at Risk is determined.

10. Equal Employment Opportunity

The Construction Manager at Risk agrees to comply with all federal, state and local laws, resolutions, ordinances, rules, regulations and executive orders pertaining to unlawful discrimination on account of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, sexual orientation, disability, or age. When required by law or requested by the Owner, the Construction Manager at Risk shall furnish a written affirmative action plan.

11. Prevailing Wage

TBD

12. Compliance With Applicable Law

The Construction Manager at Risk agrees to comply with all federal, state and local laws or ordinances, and all applicable rules, regulations, and standards established by any

agency of such governmental units, which are now or hereafter promulgated insofar as they relate to the Construction Manager at Risk's performance of the provisions of this Part 2 Agreement. It shall be the obligation of the Construction Manager at Risk to apply for, pay for and obtain all permits and/or licenses required by any governmental agency for the provision of those services contemplated herein, except as otherwise provided in this Part 2 Agreement.

13. Audit

Until the expiration of six (6) years after the furnishing of services pursuant to this Part 2 Agreement, the Construction Manager at Risk, upon written request, shall make available to the Owner, the State Auditor or the Owner's ultimate funding sources, a copy of this Part 2 Agreement and the books, documents, records and accounting procedures and practices of the Construction Manager at Risk relating to this Part 2 Agreement.

14. Data Practices

All data collected, created, received, maintained or disseminated for any purpose in the course of the Construction Manager at Risk's performance of this Part 2 Agreement is governed by the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, or any other applicable state statutes, any state rules adopted to implement the Act and statutes, as well as federal statutes and regulations on data privacy.

15. Conflict of Interest

The Construction Manager at Risk affirms that, to the best of the Construction Manager at Risk's knowledge, the Construction Manager at Risk's involvement in this Part 2 Agreement does not result in a conflict of interest with any party or entity which may be affected by the terms of this Part 2 Agreement. The Construction Manager at Risk agrees that, should any conflict or potential conflict of interest become known to the Construction Manager at Risk, the Construction Manager at Risk will immediately notify the Owner of the conflict or potential conflict, specifying the part of this Part 2 Agreement giving rise to the conflict or potential conflict, and will advise the Owner whether the Construction Manager at Risk will or will not resign from the other engagement or representation.

16. Workplace Violence Prevention

The Construction Manager at Risk shall make all reasonable efforts to ensure that the Construction Manager at Risk's employees, officers, agents, suppliers, and subcontractors do not engage in violence while performing under this Part 2 Agreement. Violence, as defined by the Ramsey County Workplace Violence Prevention and Respectful Workplace Policy, is defined as words and actions that hurt or attempt to threaten or hurt people; it is any action involving the use of physical force, harassment, intimidation, disrespect, or misuse of power and authority, where the impact is to cause pain, fear or injury.

17. Subcontractor Payment

Pursuant to Minnesota Statutes §471.425, the Construction Manager at Risk shall pay any subcontractor within ten days of the Construction Manager at Risk's receipt of

payment from the Owner for undisputed services provided by the subcontractor. The Construction Manager at Risk shall pay interest of 1 1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100.00 or more is \$10.00. For an unpaid balance of less than \$100.00, the Construction Manager at Risk shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from the Construction Manager at Risk must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

18. Interpretation of Agreement; Venue

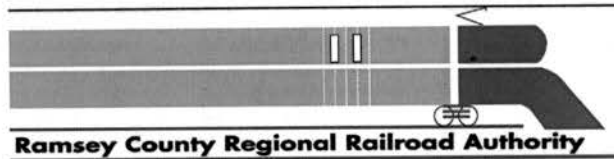
This Part 2 Agreement shall be interpreted and construed according to the laws of the State of Minnesota. All litigation regarding this Part 2 Agreement shall be venued in the appropriate state or federal district court in Ramsey County, Minnesota.

19. Unavailability of Funding

The purchase of services from the Construction Manager at Risk under this Part 2 Agreement is subject to the availability and provision of funding from the United States, the State of Minnesota, or other funding sources. The Owner may immediately cancel this Part 2 Agreement, or a portion of the services to be provided under this Part 2 Agreement, if the funding for the services is no longer available to the Owner. Upon receipt of the Owner's notice of cancellation of this Part 2 Agreement, or of a portion of the services to be provided under this Part 2 Agreement, the Construction Manager at Risk shall take all actions necessary to discontinue further commitments of funds to the extent they relate to this Part 2 Agreement or the portions of this Part 2 Agreement for which funding has become unavailable. If this Part 2 Agreement is cancelled pursuant to this provision, then the Construction Manager at Risk shall be paid by Owner according to the terms of Subparagraph 12.1.1 of this Part 2 Agreement.

20. HIPAA Compliance

The Construction Manager at Risk agrees to implement and comply with applicable provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Public Law 104-191), as it may be amended from time to time.



6560 Ramsey County Government Center West
50 Kellogg Boulevard West
St. Paul, Minnesota 55102 (651) 266-2760

**REGIONAL RAILROAD AUTHORITY MEETING
AGENDA**

October 12, 2010

Immediately following the County Board Meeting
Council Chambers - Third Floor Court House

.....
ROLL CALL and Call to Order

AGENDA of the October 12, 2010 Board Meeting is presented for approval.

MINUTES of the September 21, 2010 Board Meeting is presented for approval.

ADMINISTRATIVE AGENDA

1. Public Utility Easement for Storm Sewer Purposes

Board Action Requested:

Authorize the Chair to execute a Dedication of Easement Agreement for Public Utility Purposes to the CITY OF SAINT PAUL for a storm sewer.

2. Union Depot TIGER grant agreement with the Federal Highway Administration and Minnesota Department of Transportation

Action Requested:

- 1) Approve the Grant Agreement with FHWA and MnDOT for \$35,000,000 in funding under the TIGER program.
- 2) Authorize the County Manager to execute the Agreement.

CORRIDOR UPDATES

ADJOURNMENT

RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY

September 21, 2010

The Ramsey County Regional Railroad Authority met with the following members present: Bennett, Carter, Ortega, Parker, Reinhardt, Rettman, McDonough – 7. Absent: 0. Also present were Julie Kleinschmidt, County Manager, and Darwin Lookingbill, Director, Civil Division, County Attorney's Office.

Chair McDonough called the meeting to order at 9:32 a.m.

AGENDA

Commissioner Bennett moved approval of the Agenda of the September 21, 2010 Board Meeting, seconded by Commissioner Parker. Roll Call: Ayes – Bennett, Carter, Ortega, Parker, Reinhardt, Rettman, McDonough – 7. Nays – 0.

MINUTES

Commissioner Reinhardt moved approval of the Minutes of the September 7, 2010 Board Meeting, seconded by Commissioner Carter. Roll Call: Ayes – Bennett, Carter, Ortega, Parker, Reinhardt, Rettman, McDonough – 7. Nays – 0.

1. Resolution supporting Washington County's application to the Counties Transit Improvement Board

Commissioner Parker moved approval of the following resolution, seconded by Commissioner Reinhardt. Roll Call: Ayes – Bennett, Carter, Ortega, Parker, Reinhardt, Rettman, McDonough – 7. Nays – 0. (R10-45)

WHEREAS, the Counties Transit Improvement Board (CTIB) has authorized the 2010 Grant Solicitation Process for grants payable in 2011; and,

WHEREAS, Ramsey County Regional Railroad Authority has been a member of the Counties Transit Improvement Board (CTIB) since 2008; and,

WHEREAS, Ramsey County Regional Railroad Authority has been a member of the Red Rock Corridor Commission joint powers board since 1998; and,

WHEREAS, the Red Rock Corridor is included in the 2030 Metropolitan Council Transportation Policy Plan as a transitway; and

WHEREAS, the Red Rock Corridor Commission (RRCC) is leading a Station Area Planning study for the Southeast Stations of the Red Rock Corridor; and,

WHEREAS, Washington County is guaranteed three percent of the total estimated revenue generated from CTIB for each of the years 2010-2013; and

WHEREAS, 80% of the funding for the Station Area Planning Study is being provided by federal funds and the remaining 20 percent is the local match. Now, Therefore Be It

RESOLVED, that Ramsey County Regional Railroad Authority supports Washington County's application to the Counties Transit Improvement Board for grants payable in 2011 in the amount of \$107,000 to serve as a local matching grant to federal funds for the Red Rock Corridor Station Area Planning Study.

2. Amended and Restated Gateway (I-94) Corridor Joint Powers Agreement

Commissioner Ortega moved approval of the following resolution, seconded by Commissioner Bennett. Roll Call: Ayes – Bennett, Carter, Ortega, Parker, Reinhardt, Rettman, McDonough – 7. Nays – 0. (R10-46)

WHEREAS, The I-94 Corridor currently carries 90,000 to 150,000 vehicles per day from the St Croix River Bridge to downtown St Paul; and

WHEREAS, The 2030 Transportation Policy Plan has been approved by the Metropolitan Council and shows that traffic and congestion are forecast to increase substantially by 2030 resulting in the entire length of I-94 from downtown St Paul to the St Croix River as being congested; and

WHEREAS, The 2030 Transportation Policy Plan identifies the I-94 Corridor as a Transitway Corridor in need of additional analysis; and

WHEREAS, The transitway analysis is needed to identify how mobility can be maintained and improved in the corridor; and

WHEREAS, The I-94 Corridor Commission was created on March 3, 2010 with the Regional Railroad Authorities of Ramsey and Washington County approving the Joint Powers Agreement (JPA); and

WHEREAS, In addition to the County Regional Railroad Authorities, the communities of St Paul, Maplewood, Oakdale, Woodbury, Lake Elmo, West Lakeland Township, Afton and Lakeland also approved the JPA; and

WHEREAS, The I-94 Corridor Commission approved changing its name to the Gateway Corridor Commission on July 12, 2010; and

WHEREAS, The existing JPA may be amended by unanimous agreement of the Parties as evidenced by resolutions adopted by the respective governing bodies. Now, Therefore, Be It

RESOLVED, That the Ramsey County Regional Railroad Authority approves the revised and amended Joint Powers Agreement of the Gateway Corridor Commission dated September 9, 2010 and Be It Further

RESOLVED, The Ramsey County Regional Railroad Authority authorizes the Chair and Chief Clerk to execute the Gateway Corridor Joint Powers Agreement.

3. Union Depot Multi-Modal Transit Hub Project: Phase II Construction Manager at Risk Services

Tim Mayasich, Director, Ramsey County Regional Railroad Authority (RCRRA), said the Union Depot Project has reached a milestone by completing Phase I services and is now prepared to move into Phase II construction services with the Board's approval today. He said Dan Mehls, Union Depot Project Manager with Mortenson Construction, and the Project team would provide an overview of the project to date.

[The Union Depot Project update is on file with the RCRRA Authority Office]

Dan Mehls, Mortenson Construction, introduced himself and two others with him from the team, Michael Bjornberg, HGA, and Greg Brown, URS Corporation. He said this is a day they have all been working toward since late December of 2009. Mr. Mehls went through the presentation slides describing the Project goals, team and partners involved. He said they achieved their Disadvantaged Business Enterprise (DBE) goal for Phase I which was 15%, and they will carry a 15% goal for Phase II, which is

subject to Mn/DOT's approval. They also achieved the 18% minority and 6% female Workforce Diversity goals for Phase I. Phase II goals will be the same, with MnDOT's approval.

Greg Brown, URS Corporation, gave an overview of the transportation components of the project, including the plans and layouts for the platforms.

Commissioner Reinhardt asked about the Lafayette Bridge schedule and whether the bridge would be concrete or steel.

Mr. Brown said MnDOT has complete designs for both the steel and concrete bridge options and put out bids for both of these projects. He believes the timeline has moved into mid November. We will still have a couple of months in our schedule before we send out our final design package after that date. Our design for the east side of the rail yard is what could change depending on the bridge decision. He said MnDOT has been consulting with and informing us throughout the process. Either way, we will be able to accommodate their structure.

Commissioner Rettman asked which of the platforms are included in the Guaranteed Maximum Price (GMP) and when will they receive the complete details that make up the GMP.

Mr. Mehls said only the first platform is included at this point. They are designing the second platform, will take it to market, and once the bids come in they will compare it against the bids for the rest of the project to decide if they should incorporate the second platform.

Jolly Mangine, Director, Ramsey County Property Management, said the GMP booklet will be completed and distributed to them within two weeks, prior to Chair McDonough signing the contract.

Mr. Brown continued his overview of transportation components, the deck area and platforms.

Michael Bjornberg, HGA, gave an overview of some of the design plans for the building elements including the front plaza's ceremonial/pedestrian entrance and the carriageway's event entrance. To compensate for the loss of vehicle activity in the front plaza, they are expanding the carriageway entrance to accommodate larger vehicles and are installing a staircase and an elevator that will lead to the main floor of the Head House. He gave a brief overview of the Sibley Kellogg pedestrian entrance and the Kellogg Boulevard vehicle entrance.

Mr. Brown presented the designs for the Train Deck – Public Plaza and Bicycle Path.

Commissioner Parker asked what elements are underneath the train deck at the Kellogg Boulevard entrance.

Mr. Mehls explained there will be parking, some offices and baggage movement for Amtrak and Greyhound.

Mr. Bjornberg presented the designs for the Waiting Room.

Commissioner Reinhardt asked if all of the art in the waiting room will be restored.

Mr. Bjornberg replied that it will all be restored as well as the opening of sky lights and windows that are currently blocked up. He discussed the project's Sustainability and LEED, which is the measurement typically used for rating construction and has four ratings: Certified, Silver, Gold and Platinum.

Mr. Mehls indicated they are pursuing LEED's basic certification but are optimistic that they may achieve Silver.

Mr. Mehls presented the detailed phasing plan for the street, lane, side walk closures that will take place during construction. All of this work has been coordinated with the City of St. Paul and they are in agreement with the closures that need to happen. The bulk of the disruptions around the perimeter of the project will occur in 2011 with minor disruption in 2012.

Commissioner Ortega asked if at any point during construction would 4th, Wacouta and Sibley Streets be closed at the same time. He also asked if they have coordinated with the Central Corridor Light Rail Project (CCLRT) in regard to the specific street closures. He said the businesses along 4th Street have already felt the financial impact of the initial CCLRT work currently taking place down that street. He is concerned about making the situation worse with those street closures combined with our project's construction phase.

Mr. Mehls said the streets would not be closed at the same time. He said Kellogg will be a single lane at some point but will never be completely closed. They do not have street closure plans for 4th Street. When they close Sibley for construction, they will convert Jackson into a two-way street. He said they have worked with the CCLRT Project to the best of their ability. The CCLRT contractor has not yet developed a block-by-block schedule for the entire corridor project. However, when these schedules are complete, the two projects will coordinate the street closures so that there are not double closures. He said they are very sensitive to the businesses in the area. They have had neighborhood meetings and plan to have more now that the construction plans are more detailed and defined.

Mr. Mangine added that a critical piece of the coordination for us is when the CCLRT Project constructs their platform in front of the Union Depot building on 4th Street and we do our construction work on the front plaza. We are timing it so construction pieces occur at the same time, but our team is committed to a shortened construction time of four months to coordinate with the business needs of Christos restaurant in the Depot.

Commissioner Reinhardt asked for further details of the situation with Christos and construction.

Mr. Mangine said they are making great headway. We have an existing lease with Gus Parpas, the owner of Christos, which says on May 13, 2011 he has the option to extend the lease for an additional five years. They received a letter from Mr. Parpas explaining what he would like to see in his lease extension. We've responded back to him and we are close to an agreement with him. In coordination with the CCLRT project and with the Mortenson team, Mr. Parpas would have his last wedding at the end of June 2011 and shut down on July 1, allowing him time to renovate parts of his restaurant and us time to renovate the Great Hall, the ceiling work, the platforms, etc. Renovation would take place from July through October, and then we would have a fresh start under the new lease with Christos beginning in November 2011. Therefore, they will finalize the agreement with Mr. Parpas and come back to the board for final approval, possibly in a couple of weeks.

Chair McDonough commented that the relationship and cooperation with Mr. Parpas has been very good.

Commissioner Parker asked if the Mortenson team have given a formal presentation to the Mayor and City Council.

Mr. Mehls said earlier on they met personally with the Mayor and gave him an overview and a couple of months ago they gave another presentation to the direct aides of the City Council members. Between this and the numerous meetings they have had with City staff, they feel they have communicated about the project adequately with the City of St. Paul.

Commissioner Parker encouraged that they explore presenting to the City Council.

Mr. Mehls presented a Guaranteed Maximum Price (GMP) to the board, of \$148,753,916. He said they are finalizing some details relative to insurance and will publish the final number.

[An animation video was presented]

Mr. Mangine referred the Board to the final few pages of their board packets to review the project budget, schedule and financing plan. He went through each of the expense lines of the total estimated budget, beginning with Land Acquisition/Planning: \$63,673,383, which has already been expended. RCRRA will have full occupancy of the Post Office no later than December 31, 2010. He said the GMP of \$148,753,916 may be tweaked slightly because of insurance pieces to be finalized. He added that the GMP booklet contains the complete details of what the GMP represents and the board members will receive the booklet when it is finalized. The line item, Other Design and Construction Activities, of \$8,740,000 consists of Class 1 Railroad (includes design and contingency), and Eastern Construction Site Improvements, which is work that is associated with the Lafayette Bridge project and will not be completed until the end of 2014 or early 2015. It is not yet known if the \$19,520,591 line item for Owner's Contingency and Other Administrative Costs is needed, but the early construction work will provide more detailed information on the need for contingency prior to preparation of a final financing plan in June of 2011. Mr. Mangine also discussed the project schedule. He said this schedule was originally developed about a year ago and it has not changed. Construction activities will begin on January 3, 2011 or earlier and will be completed by December 31, 2012.

Mr. Mayasich briefly went through the financing plan, saying of the \$243,392,890 total estimated project cost there are total identified revenues of \$139,566,043 and \$103,826,847 yet to be funded. RCRRA and Property Management staff will continue to work with Ramsey County Budgeting and Accounting (B&A) to develop a final financing plan by June of 2011.

Commissioner Reinhardt asked if the \$9,000,000 additional RCRRA levy dollars that were approved get deducted from the yet to be funded amount or if it is already included in the project revenues.

Mr. Mayasich said that amount is needed for a match if we are successful in securing TIGER II funds. He said we currently pursuing three grant requests: one for \$40 million with the Federal Railroad Administration, one for \$30 million submitted to the US Department of Transportation for TIGER II funds, and we are pursuing TIFIA Loan Funds for \$46.4 million.

Commissioner Rettman commented that a fiscal analysis from B&A is needed to determine how we would come up with those funds should we not receive them. She asked if the funds he just detailed uses the \$50 million bonding allocation that was tentatively approved.

Steve Morris, Transit Project Manager, confirmed that years ago the Board authorized potential bonding for \$50 million for this project that was never needed. RCRRA could build on it as they establish the financial plan for the project.

Chair McDonough commented that no matter where they end up with these funds, this is consistent with the plan that they started in 2003 with the RCRRA levy recognizing that they had the Union Depot and CCLRT projects coming forward.

Commissioner Ortega agreed with the issue of fiscal responsibility and that the Board should have the details of what the plan will be if these grants should fail.

Mr. Morris commented that there have been and will be numerous meetings with B&A, the County Manager, and the County's financial advisors to ensure that the current levy is adequate to support either bonding or other financing options that would support this contract even if nothing else positive happens.

Chair McDonough confirmed that, with the worst case scenario, if we had to fund this entire gap through the RCRRA there would be no need to increase the levy to accomplish it.

Commissioner Rettman said the issue she has is this statement made by Chair McDonough is not a part of the documents before them and needs to be before they sign a contract.

Chair McDonough said they could add this language into the package.

Mr. Mayasich said this has been their working plan from the beginning. They've been successful at the federal level but, if there are remaining funds needed to complete the financing package, they could do it through bonding without raising the current levy.

Commissioner Ortega said if we are to sign a contract, then we need to have the language in there that details how everything will be covered.

Commissioner Reinhardt suggested adding a statement to the resolution and also to the financing plan, indicating that the RCRRA has already approved a fall back plan to cover this amount without raising the levy.

Chair McDonough suggested adding the statement the RCRRA has identified sources to fund the potential \$103.8 million gap within the existing RCRRA levy.

Commissioner Ortega asked for confirmation that they do not have final project funding amounts because some items are missing.

Mr. Morris confirmed that statement, and said one of the fortunate aspects of the timing is that by next summer we will know where we will stand with the contingency and with these new rounds of grants. That is when we will have the completed numbers.

Commissioner Ortega said it does show that we are capable of covering what it takes to complete the project. As a contract to move forward it is important to show what is and can be covered.

Commissioner Parker commented that if we formally add that the statement into the resolution it might hurt our chances of getting funding.

Commissioner Rettman said we need to include that every attempt will be made to secure federal funding to mitigate any impact on the usage of the levy. She also said not seeing the details how they plan to finance the \$103.8 million is a concern.

Commissioner Reinhardt agreed with that point and that it get added into the resolution.

Chair McDonough suggested the language the RCRRA will continue to maximize all opportunities to secure outside funding to help fill the potential gap, recognizing that the RCRRA's current levy has the capacity to absorb that gap within the current budget.

Commissioner Rettman requested that they all receive the complete attachments. She asked if they were to change this to a preliminary resolution, allowing the Board to receive the GMP booklet and completed financing plan, would it delay anything with the contract signing. She also wanted clarification as to whether the GMP would increase or decrease.

Chair McDonough said there are two issues, the contract and the financing plans. The financing piece may not be ready until June or July of next year, so we could have an update on it.

Mr. Mangine said the GMP will never increase, but has the potential to be reduced. It will never exceed within the estimated budget of \$148,753,916.

Chair McDonough suggested adding into the final resolve, "not to exceed the GMP of \$148,753,916".

Commissioner Reinhardt said she is comfortable with the additional language and all of the information provided to move forward with this today. She suggested slightly changing the last part of the resolution to clarify that they are talking about both the Director of RCRRA and the Director of Property Management.

Commissioner Ortega suggested adding a quick review or update to the RCRRA agenda in the near future.

Commissioner Reinhardt wanted to clarify that they would proceed with the amended resolution and schedule an update once the complete GMP booklet is completed.

Chair McDonough clarified that this resolution would give him the authority to sign the contract and they would not be able to go back on it. The completed document could be brought back to the RCRRA to have the discussion with the staff and team but he does not want the expectation that the document will not be signed by the time that happens. He asked if the Board agreed on the changes to the resolution.

Commissioner Rettman commented that the fiscal note should always be a part of these documents. She said she is more comfortable now with the additional language but requests a future update.

The rest of the board agreed and the amendment was accepted.

Chair McDonough thanked the Mortenson team and the RCRRA staff.

Mr. Mayasich said it has truly been a team effort throughout the County and the RCRRA could not have made these achievements without the help of the other departments.

Commissioner Ortega moved approval of the following resolution as amended, seconded by Commissioner Bennett. Roll Call: Ayes – Bennett, Carter, Ortega, Parker, Reinhardt, McDonough – 7. Nays – Rettman: 1 (R10-47)

WHEREAS, On January 12, 2010, by resolution R10-11, the Ramsey County Regional Railroad Authority approved a Part 1 Agreement with Mortenson Construction for Phase I Construction Manager at Risk services for the Union Depot Multi-Modal Transit Hub project ; and

WHEREAS, On April 20, 2010 and June 22, 2010 the project team updated the Ramsey County Regional Railroad Authority on the project; and

WHEREAS, A Gross Maximum Price of \$148,753,916 has been developed that is within the project budget and:

WHEREAS, the Ramsey County Regional Railroad Authority has identified sources to fund a potential \$103.8 million gap within the existing Regional Railroad Authority levy, and:

WHEREAS, the Ramsey County Regional Railroad Authority will continue to maximize all opportunities to secure outside funding to help fill the potential funding gap, and:

WHEREAS, Staff recommends that the Ramsey County Regional Railroad Authority Board authorize the Chair to execute a Part 2 Agreement with Mortenson Construction for Phase II Construction Manager at Risk Services for the project, Now, Therefore Be It

RESOLVED, That the Ramsey County Regional Railroad Authority accepts and approves the updated project budget, schedule and financing plan, and Be it Further

RESOLVED, That the Ramsey County Regional Railroad Authority hereby approves a Part 2 Agreement with Mortenson Construction for Phase II Construction Manager at Risk services for the project with a Project Gross Maximum Price of \$148,753,916, and Be it Further

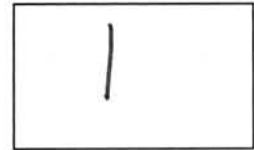
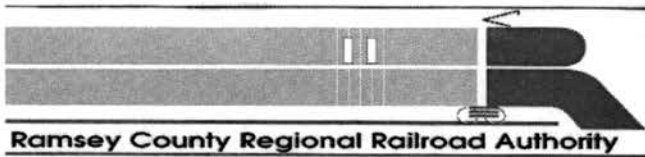
RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes its Chair to execute a Part 2 Agreement with Mortenson Construction for Phase II Construction Manager at Risk Services for the project, not to exceed the Gross Maximum Price of \$148,753,916, subject to approval by the County Attorney's office, the Director of the Ramsey County Regional Railroad Authority, and the Director of Ramsey County Property Management.

CORRIDOR UPDATES

Chair McDonough updated the Board on the activities of the Counties Transit Improvement Board (CTIB). He said at the last CTIB meeting, the Metropolitan Council provided a riders and operations update on multiple CTIB funded projects including Hiawatha, Northstar, and BRT service on I-35W and Cedar Avenue. CTIB funding provides 50% of the operating funding for these transitways. Once Central Corridor comes online in 2014, CTIB will pay for 50% of that line's operating cost as well. He added that the figures presented by the Council were consistent with CTIB's 2010 budget. An additional update was given on future phases of the Cedar Avenue Bus Rapid Transit Corridor, as well as grant funding requests for 2011, which will include a \$106 million request for the Central Corridor. The \$106 million is part of CTIB's total commitment of \$300 million to the Central Corridor.

ADJOURNMENT

There being no further business, Chair McDonough declared the meeting adjourned at 11:10 a.m.



REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
☒ Administrative ☐ Information

Regional Railroad Authority Meeting Date: 10/12/10

Regional Railroad Authority Meeting Date: _____

SUBJECT: Public Utility Easement for Storm Sewer Purposes.

EXECUTIVE SUMMARY

The CITY OF SAINT PAUL, a municipal corporation under the laws of the State of Minnesota, ("City") is requesting a Dedication of Easement for Public Utility Purposes for a storm sewer. The City has a number of storm water improvement projects throughout the city as well as some wetland enhancement plans. The Lake Phalen project involves the improvement of a wetland on the west side of the Ramsey County Regional Railroad Authority (RCRRA) corridor (at Maryland and Johnson - on the south end of Lake Phalen). The design involves directing additional storm water from the east side of the RCRRA corridor to the wetland. The existing trunk storm sewer line is too deep to utilize in this capacity. The design is to run a smaller storm sewer line in this area - but at an elevation that would allow for discharge into the wetland. The result would be an 18" directionally bored pipe at depth of approximately 17 feet below the existing grade at the centerline of the RCRRA corridor.

The RCRRA supports Saint Paul's storm sewer improvements because of the positive impact it will have on the neighborhood. RCRRA staff consulted with the City's engineer regarding this Storm Sewer Utility Easement. The sewer pipe does not appear to create any conflict for future transportation development because the underground storm sewer shall be buried approximately 17 feet underground and re-enforced in anticipation of light rail load. Additionally, staff recommends approval of the Easement as the the easement specifies the RCRRA's right to direct removal or relocation of this storm sewer.

ACTION REQUESTED

Authorize the Chair to execute a Dedication of Easement Agreement for Public Utility Purposes to the CITY OF SAINT PAUL for a storm sewer.

SUBJECT: Public Utility Easement for Storm Sewer Purposes.

ATTACHMENTS:

1. Dedication of Easement for Public Utility Purposes.
2. Maryland and Johnson Aerial EXHIBIT

PREVIOUS ACTION: None.

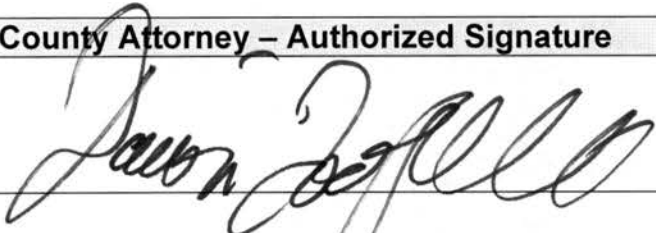
COUNTY MANAGER'S COMMENTS:

Granting this Public Utility Easement will help facilitate St. Paul's wetland improvement project adjacent to Lake Phalen.

SUBJECT: Public Utility Easement for Storm Sewer Purposes.

Regional Railroad Authority – Authorized Signature	Date
	10/7/10

Budgeting & Accounting – Authorized Signature	Date
	10/6/10

County Attorney – Authorized Signature	Date
	10/7/10

Property Management – Authorized Signature	Date

Information Services – Authorized Signature	Date

Other – Authorized Signature	Date

SUBJECT: Public Utility Easement for Storm Sewer Purposes.

Draft Resolution

1 WHEREAS, the CITY OF SAINT PAUL is planning storm water improvement projects
2 including a wetland enhancement plans near the Southeast corner of Lake Phalen; and
3

4 WHEREAS, the CITY OF SAINT PAUL, a municipal corporation under the laws of the State
5 of Minnesota, is requesting a Dedication of Easement for Public Utility Purposes agreement for a
6 storm sewer, which will be located near the Southeast corner of Lake Phalen, North of the
7 intersection of Johnson and Maryland, and will cross perpendicular to and under a portion of
8 Ramsey County Regional Railroad Authority corridor property; and
9

10 WHEREAS, the Ramsey County Regional Railroad Authority supports the CITY OF SAINT
11 PAUL's storm sewer and wetland improvements because of the positive impact it will have on the
12 neighborhood; and
13

14 WHEREAS, the underground storm sewer installation does not appear to create any conflict
15 for future transportation development, including the possibility of light rail; now, therefore be it
16

17 RESOLVED, The Ramsey County Regional Railroad Authority authorizes its Chair to
18 execute a Dedication of Easement Agreement for Public Utility Purposes to the CITY OF SAINT
19 PAUL for a storm sewer.

(Space Above for Recorder/Registrar Use)

**DEDICATION OF PUBLIC UTILITY EASEMENT
FOR STORM SEWER PURPOSES**

The **Ramsey County Regional Railroad Authority**, a political subdivision of the State of Minnesota ("**Grantor**"), for good and valuable consideration, to them in hand paid and the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey to the **City of Saint Paul**, a municipal corporation of the State of Minnesota, its successors, and assigns, ("**Grantee**"), a permanent public utility easement for storm sewer purposes on, over, under and across the following tract of land being in the County of Ramsey, State of Minnesota, described on **Exhibit A-1** and depicted on **Exhibit A-2** attached hereto and incorporated herein ("**Easement Area**"). To have and to hold the same forever.

Notwithstanding anything to the contrary contained herein, the parties hereby acknowledge and agree that the Easement Area is part of a former railroad right of way previously owned by Burlington Northern Railroad ("**BNRR**") and such Easement Area was acquired from the BNRR by the Grantor for preservation as a larger corridor for future development of a public rail transit system or related busway between downtown St. Paul and the northern and eastern portions of Ramsey County (the "**Rail or Bus System**"). Except as otherwise provided herein, Grantee's rights to maintain a utility easement within the Easement Area are specifically subordinate to Grantor's right to construct and maintain the Rail or Bus System on the Easement Area.

If, at such time as the Grantor, its successors or assigns, elects to construct and install the Rail or Bus System on the Easement Area, the Grantor determines in its reasonable discretion that the Grantee's use of the Easement Area is incompatible with the Grantor's construction and operation of the Rail or Bus System on the Easement Area, Grantee shall be required to remove its public utilities from the Easement Area, at Grantee's sole cost and expense. Upon such removal, this easement shall automatically terminate without any further action of the parties.

Grantor does covenant that it is well seized in fee of the land and premises aforesaid, and has good right to sell and convey the same free of all encumbrances. Grantor also covenants that the above granted easement is in the quiet and peaceable possession of the Grantee. Grantor will warrant and defend against all persons lawfully claiming the whole or any part thereof, subject to encumbrances, if any, hereinbefore mentioned.

It is intended and agreed that this agreement shall be a covenant running with the land and shall be binding to the fullest extent of the law and equity for the benefit of the public. It is further intended and agreed that this agreement and covenant shall remain in effect without limitation as to time.

IN TESTIMONY WHEREOF, Grantor, the **Ramsey County Regional Railroad Authority**, a political subdivision of the State of Minnesota has caused this easement to be executed in its corporate name by its duly authorized officers, and attested to this _____ day of _____, 2010.

GRANTOR:

RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY, a political subdivision of the State of Minnesota

By: _____
Name: _____
Title: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2010, by _____, the _____ of Ramsey County Regional Railroad Authority, a political subdivision of the State of Minnesota, on behalf of Ramsey County Regional Railroad Authority, who is known to me personally or who produced a valid driver's license for identification.

Notary Public

This Instrument was drafted by:

City of Saint Paul
Office of Financial Services – Real Estate Section
25 W. 4th St., Rm. 1000
St. Paul, MN 55102

**EXHIBIT A-1
TO
DEDICATION OF PUBLIC UTILITY EASEMENT
FOR STORM SEWER PURPOSES**

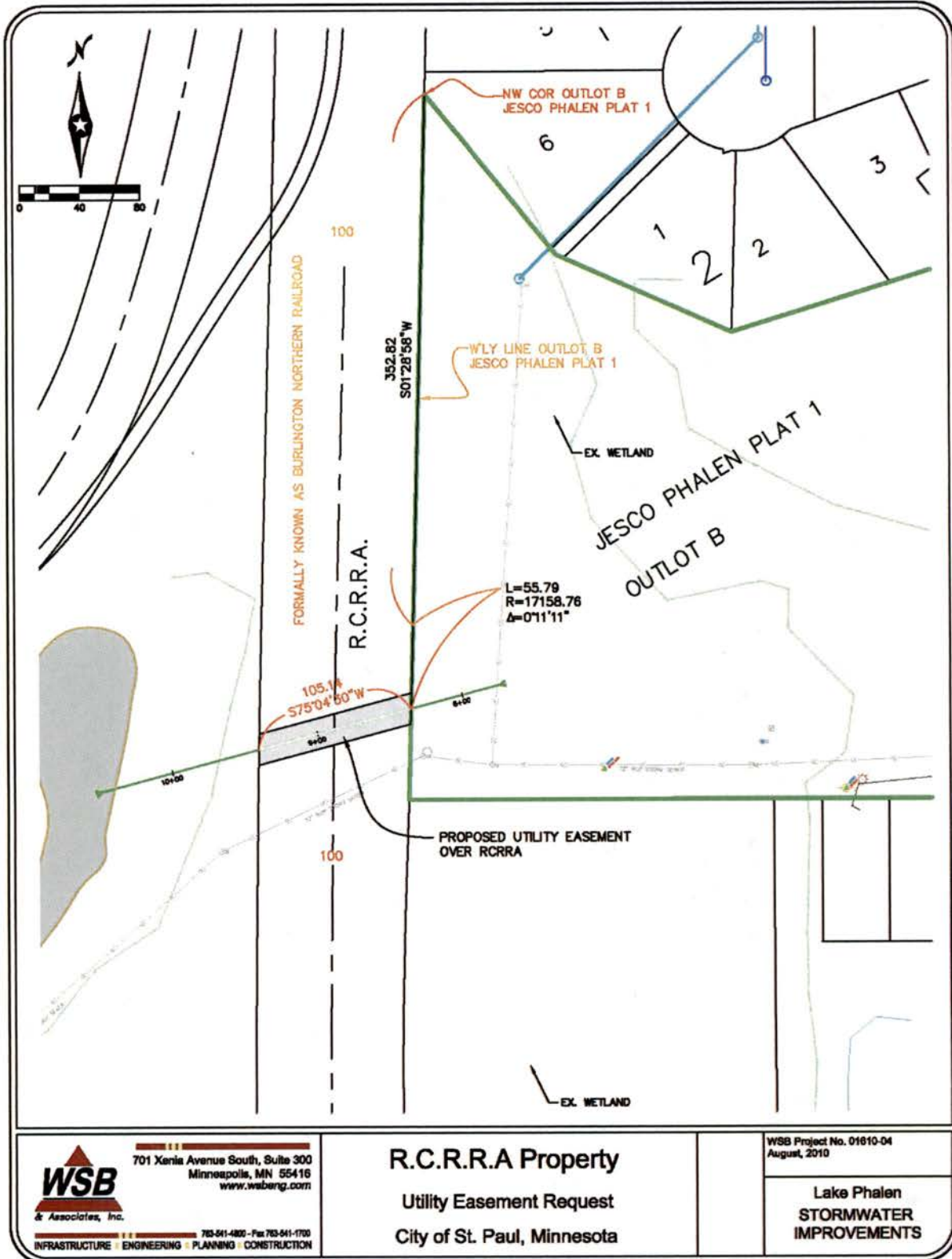
Legal Description of the Easement Area

A strip of land 20.00 feet in width over that part of the 100.00 foot wide Ramsey County Regional Railroad Authority (formerly known as Burlington Northern Railroad) over that part the Southeast Quarter of Section 21, and that part of the Southwest Quarter of Section 22, all in Township 29, Range 22, Ramsey County, Minnesota, the centerline of said 20.00 foot strip of land is described as follows:

Beginning at the northwest corner of Outlot B, JESCO PHALEN PLAT 1, according to said plat on file and of record in the office of the County Recorder, Ramsey County, Minnesota; thence South 01 degrees 28 minutes 58 seconds West, assumed bearing along the west line of said Outlot B, 352.82 feet; thence southerly, continuing along said west line of Outlot B, 55.79 feet, along a tangential curve, concave to the west, having a radius of 17158.76 feet and a central angle of 00 degrees 11 minutes 11 seconds, to the point of beginning of said centerline to be hereinafter described; thence South 75 degrees 04 minutes 30 seconds West, 105.14 feet, to the west line of said Ramsey County Regional Railroad Authority (formerly known as Burlington Northern Railroad), and said centerline there terminating.

**EXHIBIT A-2
TO
DEDICATION OF PUBLIC UTILITY EASEMENT
FOR STORM SEWER PURPOSES**

Depiction of the Easement Area



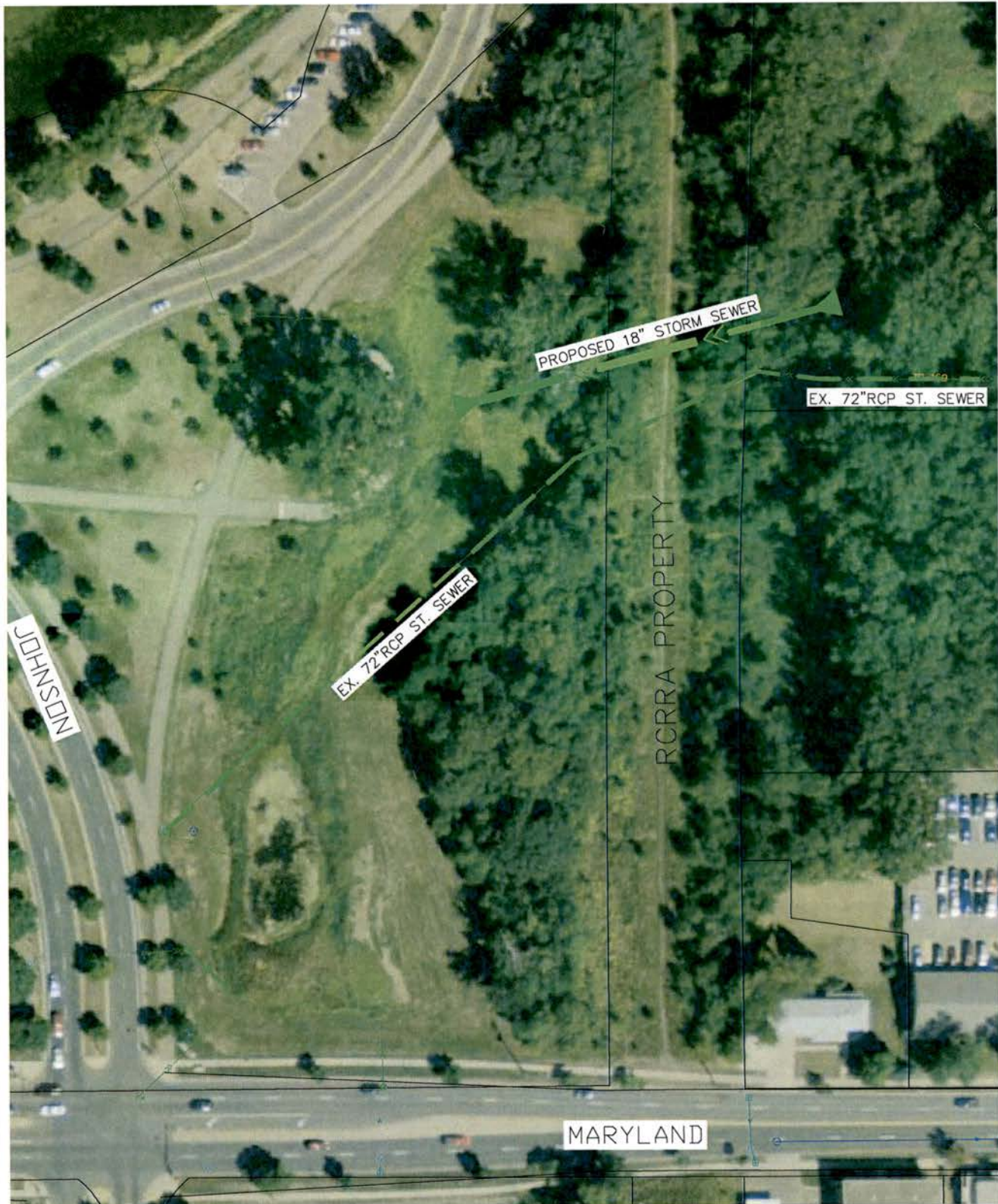


FIGURE 1

Proposed Storm Sewer Location



701 Xenia Avenue South, Suite 300
Minneapolis, MN 55416
www.wsbeng.com

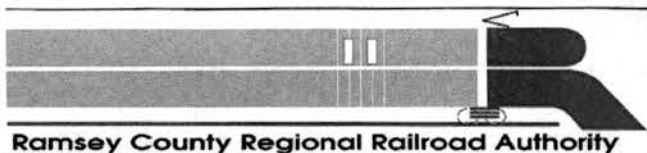
763-541-4800 • Fax 763-541-1700
INFRASTRUCTURE ENGINEERING PLANNING CONSTRUCTION

IC:\PS&S-04\CityofSaintPaul\RCRA-0201.dwg, 8.5 x 11, 4/27/2010 4:28:25 PM



WSB Project No. 01610-04
April, 2010

Lake Phalen
STORMWATER
IMPROVEMENTS



2

REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
☒ Administrative ☐ Information

Regional Railroad Authority Meeting Date: 10/12/10

Regional Railroad Authority Meeting Date: _____

SUBJECT: Union Depot TIGER grant agreement with the Federal Highway Administration and Minnesota Department of Transportation

EXECUTIVE SUMMARY

The Ramsey County Regional Railroad Authority (RCRRA) was one of fifty-one projects nationally to receive a grant in early 2010 under the Transportation Investments Generating Economic Recovery (TIGER) portion of the American Recovery and Reinvestment Act. The grant is for \$35,000,000 and is being administered by the Federal Highway Administration (FHWA) through the Minnesota Department of Transportation (MnDOT). This administration approach is the same one that is being used for the approximately \$45.3 million Projects of National and Regional Significance federal grant for the Depot. The FHWA, Federal Transit Administration, MnDOT and the Metropolitan Council cooperated closely with RCRRA to meet required regulations and allow the project to maintain its schedule.

RCRRA and Property Management staff discussed project administration requirements with FHWA and MnDOT and have developed a Grant Agreement for the TIGER funding. This agreement will support the Union Depot construction that will begin the end of this year.

Applications for \$40 million in Federal Railroad administration funding and \$30 million under the TIGER II program have been filed. Results of those applications will be received in time for incorporation into a final financing plan.

ACTION REQUESTED

1. Approve the Grant Agreement with FHWA and MnDOT for \$35,000,000 in funding under the TIGER program.
2. Authorize the County Manager to execute the Agreement.

1

SUBJECT: Union Depot TIGER grant agreement with the Federal Highway Administration and Minnesota Department of Transportation

ATTACHMENTS:

Grant Agreement (on file with the RCRRA Office)

PREVIOUS ACTION:

N/A.

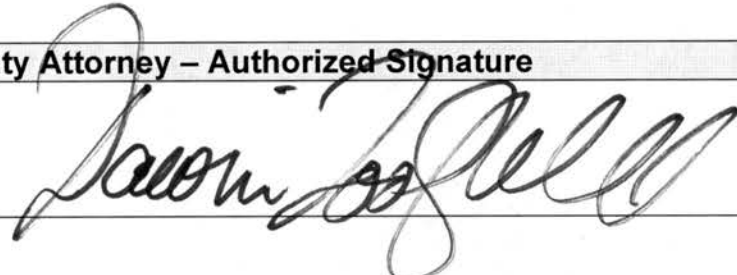
COUNTY MANAGER'S COMMENTS:

This funding is a significant part of the financing for the Union Depot and will help keep the project on schedule.

SUBJECT: Union Depot TIGER grant agreement with the Federal Highway Administration and Minnesota Department of Transportation

Regional Railroad Authority – Authorized Signature	Date
	10/7/10

Budgeting & Accounting – Authorized Signature	Date
	10/6/10

County Attorney – Authorized Signature	Date
	10/7/10

Property Management – Authorized Signature	Date

Information Services – Authorized Signature	Date

Other – Authorized Signature	Date

SUBJECT: Union Depot TIGER grant agreement with the Federal Highway Administration and Minnesota Department of Transportation

DRAFT RESOLUTION

1 WHEREAS, The Ramsey County Regional Railroad Authority has worked to develop the
2 Union Depot Multi-Modal Transit Hub and other transportation projects that benefit the citizens of
3 Ramsey County; and
4

5 WHEREAS, The RCRRA was awarded a \$35,000,000 TIGER grant for the project; and
6

7 WHEREAS, A Grant Agreement has been negotiated with the Federal Highway
8 Administration and the Minnesota Department of Transportation to provide the funding; Now,
9 Therefore, Be It
10

11 RESOLVED, The Ramsey County Regional Railroad Authority approve the Grant
12 Agreement with the Federal Highway Administration and the Minnesota Department of
13 Transportation for \$35,000,000 in funding under the TIGER program; and be it further
14

15 RESOLVED, That the Ramsey County Regional Railroad Authority authorizes the County
16 Manager to execute the Agreement.
17

Attachment

**UNITED STATES OF AMERICA
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, DC 20590**

**GRANT AGREEMENT
UNDER THE
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
TRANSPORTATION INVESTMENTS GENERATING ECONOMIC
RECOVERY (TIGER) DISCRETIONARY GRANT PROGRAM**

RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY

UNION DEPOT

FHWA TIGER Grant No.

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Grant Agreement

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Section 2	General Terms and Conditions
Section 3	Applicable Federal Laws and Regulations
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Section 5	Reimbursement of Project Costs
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Section 7	Special Grant Requirements
Section 8	Assurances
Section 9	Termination, Modification and Expiration
Section 10	Award and Execution of Grant Agreement

Attachments

Attachment A	Statement of Work
Attachment B	Grant Assurances
Attachment C	Recovery Act Requirements and Contract Clauses
Attachment D	Monthly Project Progress Reports: Format and Content
Attachment E	Project Budget
Attachment F	Project Schedule
Attachment G	Technical Application
Attachment H	Milestone/Deliverable Schedule
Attachment I	Performance Measures

**GRANT AGREEMENT BETWEEN THE
U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY
ADMINISTRATION, MINNESOTA DEPARTMENT OF TRANSPORTATION
AND RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY, UNDER THE
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009,
SUPPLEMENTAL DISCRETIONARY GRANTS FOR A NATIONAL SURFACE
TRANSPORTATION SYSTEM,
HEREINAFTER REFERRED TO AS THE
"TIGER DISCRETIONARY GRANT PROGRAM"**

WHEREAS, the Ramsey County Regional Railroad Authority, hereinafter referred to as "Grantee," or "Recipient," and also as "RCRRA," has applied for a grant to redevelop The Union Depot in downtown St. Paul, Minnesota (hereinafter referred to as the "Project"), under the TIGER Discretionary Grant Program authorized by the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (hereinafter referred to as the "Recovery Act" or "ARRA");

WHEREAS, the U.S. Department of Transportation, (referred to as the "DOT" or "Government"), acting for the United States, received and reviewed over 1,400 applications for grants under the TIGER Discretionary Grant Program;

WHEREAS, DOT selected 51 projects to receive TIGER Discretionary Grants because of the benefits that these projects are expected to provide;

WHEREAS, the project was selected for funding based on the basis that the project will connect several modes of transportation, thereby increasing efficiency and improving the overall level of service in the heart of downtown Saint Paul and the redevelopment of the Depot presents an opportunity to promote economic growth and create a vibrant, multi-modal transportation center;

THEREFORE, DOT awards this grant in the amount of Thirty-Five Million Dollars (\$35,000,000) to be administered by the Federal Highway Administration ("FHWA"), to assist in the Grantee's efforts to construct the Project, in accordance with the terms and conditions of this grant agreement (hereinafter referred to as the "Grant Agreement").

SECTION 1. LEGISLATIVE AUTHORITY

Title XII of the Recovery Act provides that "...the Secretary of Transportation shall distribute funds provided...as discretionary grants to be awarded to State and local governments or transit agencies on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region." The Act also provides that "...projects eligible for funding provided under this heading shall include, but not be limited to, highway or bridge projects eligible under title 23, United States Code, including interstate rehabilitation, improvements to the rural collector road system, the reconstruction of overpasses and interchanges, bridge replacements, seismic retrofit projects for bridges, and road realignments; public transportation projects eligible under chapter 53 of title 49, United States Code, including investments in projects participating

TIGER Grant Agreement for Union Depot, St Paul, MN

in the New Starts or Small Starts programs that will expedite the completion of those projects and their entry into revenue service; passenger and freight rail transportation projects; and port infrastructure investments, including projects that connect ports to other modes of transportation and improve the efficiency of freight movement.”

Further, the Recovery Act provides that the authority to award a grant under the TIGER Discretionary Grant Program and perform oversight may be transferred from the Secretary of Transportation to the Administrators of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration and the Maritime Administration.

Pursuant to Minnesota Statutes Section 161.36, the Ramsey County Regional Rail Authority (RCRRA) desires Mn/DOT to act as the RCRRA's agent in accepting federal funds on the RCRRA's behalf for the construction, improvement, or enhancement of transportation financed either in whole or in part by federal funds.

SECTION 2. GENERAL TERMS AND CONDITIONS

- a) The maximum obligation of the Government payable under this TIGER Grant Agreement, shall be Thirty-Five Million Dollars (\$35,000,000), (referred to as the “Grant”) subject to all the terms and conditions in this Grant Agreement.
- b) Payment of the Grant will be made pursuant to and in accordance with 49 C.F.R. Parts 18 and 19 (to the extent that a non-governmental grantee receives grant funding), and the provisions of such regulations and procedures as the Government may prescribe. Final determination of Grant expenditures may be based upon a final review of the total amount of agreed project costs and settlement will be made for adjustments to the Grant amount in accordance with applicable government-wide cost principles under 2 C.F.R. 225 (State and Local Governments); 2 C.F.R. 215 (Higher Education Institutions); and 2 C.F.R. 230 (Non-Profit Organizations). If there are any differences between the requirements of 49 C.F.R. Parts 18 and 19 and Title 23 of the United States Code and Code of Federal Regulations, the title 23 requirements will take precedence.
- c) The Grantee agrees to carry out and complete the Project without undue delays and in accordance with the terms hereof, including the Project Schedule attached as Attachment F, and such regulations and procedures as the Government may prescribe.
- d) The Grantee has submitted a request for Federal assistance, hereinafter referred to as the “Technical Application,” attached as Attachment G, and the Government is relying upon the Grantee's assurances, certifications, and other representations made in the Technical Application, or any other related documents submitted to the Government; and, in its submissions, the Grantee has demonstrated justification for the Project, and has demonstrated the financial and technical feasibility of the Project, including the ability to start construction quickly upon receipt of the Grant; to expend

TIGER Grant Agreement for Union Depot, St Paul, MN

Grant funds once construction starts; and to receive all necessary environmental, state and local planning, and legislative approvals necessary for the Project to proceed in accordance with the Project Schedule.

- e) The Government has determined that the Project should receive a Grant based on a review of the Project's potential to rapidly create jobs and economic activity; to provide lasting, long-term economic benefits for the transportation system; and to provide other outcomes, as specified in the June 17, 2009, Federal Register Notice, "Notice of Funding Availability for Supplemental Discretionary Grants for Capital Investments in Surface Transportation Infrastructure Under the American Recovery and Reinvestment Act" (Docket No. OST-2009-0115).
- f) The Grantee will be monitored periodically by the Government, both programmatically and financially, to ensure that the Project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of office-based reviews and onsite monitoring visits. Monitoring will involve the review and analysis of the financial, programmatic, performance and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed. The Grantee is responsible for monitoring award activities, to include sub-awards, to provide reasonable assurance that the Federal award is administered in compliance with applicable requirements. Responsibilities include the accounting of receipts and expenditures, cash management, maintaining adequate financial records, and refunding disallowed expenditures. (For further information, please see Attachment B).
- g) The Grantee agrees to take all steps, including initiating litigation, if necessary, to recover Federal funds if the Government determines, after consultation with the Grantee, that such funds have been spent fraudulently, wastefully, or in violation of Federal laws, or misused in any manner in undertaking the Project. For the purposes of this Grant Agreement, the term "Federal funds" means funds however used or disbursed by the Grantee that were originally paid pursuant to this Grant Agreement.
- h) The Grantee agrees to retain all documents relevant to the Grant award for a period of three years from completion of the Project and receipt of final reimbursement from the Government. The Grantee agrees to furnish the Government, upon request, all documents and records pertaining to the determination of the Grant amount or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Grantee, in court or otherwise, involving the recovery of such Grant amount shall be approved in advance by the Government.
- i) The Government is subject to the Freedom of Information Act (FOIA). The Grantee should therefore be aware that all applications and related materials submitted by the Grantee related to this Grant Agreement will become agency records and thus are subject to FOIA and to public release through individual FOIA requests. ARRA also mandates broad public dissemination of information related to the expenditure of

TIGER Grant Agreement for Union Depot, St Paul, MN

funds through reporting requirements and website postings that are addressed in other sections of this Grant Agreement. President Obama's March 20, 2009 Memorandum for the Heads of Executive Departments and Agencies on Ensuring Responsible Spending of Recovery Act Funds mandates the strongest possible efforts to ensure public transparency and accountability of Recovery Act expenditures.

- j) The Government shall not be responsible or liable for any damage to property or any injury to persons that may arise from, or be incident to, performance or compliance with this Grant Agreement.
- k) The Grantee agrees to comply with 49 C.F.R. Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation programs – as a condition of receiving grant funding.
- l) In accordance with OMB Recovery Act Guidance, (available at http://www.whitehouse.gov/omb/recovery_default/), and in the answers to Frequently Asked Questions (available at http://www.whitehouse.gov/omb/recovery_faqs), the Grantee may recoup costs in the amount of up to 0.5% of the grant amount for administering the Grant. Information about which administrative costs are reimbursable under this program is available in 2 C.F.R. Part 225 (OMB Circular A-87), "Cost Principles for State and Local Governments" [located at: <http://www.whitehouse.gov/omb/circulars/a087/a087-all.html>], and in Recovery Act specific guidance in OMB Memorandum M-09-18, Payments to State Grantees for Administrative Costs of Recovery Act Activities (May 11, 2009). The costs for reporting performance measures required pursuant to subsection m below are permitted as part of the up to 0.5% in administrative costs.
- m) Subject to the Paperwork Reduction Act, as necessary, the Grantee agrees to
 - 1) collect the data necessary to track and report on each of the performance measures identified in the Performance Measurement Table which is included as Attachment I of this Grant Agreement;
 - 2) report the results of such data collection to the Government; and
 - 3) Grantee should include the data collected for each measure in each required report. To satisfy the reporting requirements, Grantee agrees to provide "Before" and "After" reports. Before reports should include current baseline data for each performance measure and should be delivered to the Government before project completion. Before reports should also include a detailed description of data sources, assumptions, variability and the estimated level of precision for each measure. Grantee should provide After reports for each performance measure following project completion at the intervals, and for the time periods, specified in the Performance Measure Table included as Attachment I. After reports may include a narrative discussion detailing project successes and/or the influence of

external factors on project expectations. The final After report must include an ex post examination of project effectiveness in relation to Before baselines.

- n) The Government encourages the Grantee and the Minnesota Department of Transportation (Mn/DOT) acting as the limited agent on behalf of the Grantee, to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies that bar text messaging while driving company-owned or – rented vehicles, or government-owned, leased, or rented vehicles or privately-owned vehicles when on official government business or when performing any work for or on behalf of the Government. See Executive Order 13513 “Federal Leadership on Reducing Text Messaging While Driving”, Oct. 1, 2009 (available at <http://edocket.access.gpo.gov/2009/E9-24203.htm>) and DOT Order 3902.1 “Text Messaging While Driving”, Dec. 30, 2009 (available at <http://dotnet.gov.gov>), as implemented by Financial Assistance Policy Letter (No. FAP-2010-01, Feb. 2, 2010). This includes, but is not limited to, the Grantee and the Minnesota Department of Transportation acting as the limited agent on behalf of the Grantee:
- 1) considering new rules and programs or re-evaluating existing programs to prohibit text messaging while driving;
 - 2) conducting education, awareness, and other outreach for employees about the safety risks associated with texting while driving.
 - 3) encouraging voluntary compliance with the agency’s text messaging policy while off duty.

The Grantee is encouraged to insert the substance of this clause in all assistance awards.

SECTION 3. APPLICABLE FEDERAL LAWS AND REGULATIONS

In addition to any other Federal requirements that apply, including specific and/or additional Buy American and Davis Bacon Act Prevailing Wage requirements or other specific requirements that apply under Title 23 or Title 49 of the United States Code, performance under this Grant Agreement shall be governed by and in compliance with the following requirements as applicable to the type of organization of the Recipient and any applicable sub-recipients:

- a) The “Uniform Administrative Requirements for Grants and Grant Agreements to State and Local Governments” (49 C.F.R. 18), located at: <http://www.dot.gov/ost/m60/grant/49cfr18.htm>, DOT’s procurement standards for grants, to the extent that the Grantee procures property and services in carrying out the approved grant project. If there are any differences between the DOT procurement standards and the FHWA procurement standards, the FHWA standards will take precedence.
- b) Section 902 of the Recovery Act, requiring that each contract awarded using Recovery Act funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to: 1) examine any records of

TIGER Grant Agreement for Union Depot, St Paul, MN

the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and 2) to interview any office or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

- c) Section 1515 of the Recovery Act, authorizing the DOT Office of the Inspector General to: 1) examine any records of the contractor or Grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract, that pertain to, and involve transactions relating to, the contract, subcontract, grant or subgrant; and 2) interview any officer or employee of the contractor, Grantee, subgrantee, or agency regarding such transactions.
- d) The Buy America provisions under 23 U.S.C. §313 and 23 C.F.R. §635.410.
- e) Section 1606 of the Recovery Act (Davis-Bacon Act Wage Rate Requirements (regulations at 2 C.F.R. Part 176.190)) to the extent that the Grantee uses Grant funds for construction, alteration, maintenance, or repair work. See Attachment C, Recovery Act Requirements and Contract Clauses, for requirements and more information on Section 1606 compliance.
- f) Section 1604 of the Recovery Act, which prohibits the Grantee from expending funds under this Grant Agreement on any casino, or other gambling establishment, aquarium, zoo, golf course, or swimming pool.
- g) Sections 1201, 1511, and 1607 of the Recovery Act, requiring certifications (existing certifications will remain valid unless an update is needed). Note that the Section 1511 certification requirement pertains to particular infrastructure investments. All Certifications, once executed, should have been submitted to the Secretary of Transportation, c/o Joel Szabat, Deputy Assistant Secretary for Transportation Policy, at TigerTeam.Leads@dot.gov. Certifications may be submitted via e-mail as electronic, scanned copies, with original signed versions to follow to be submitted via U.S. mail. As required by the Recovery Act, certifications under Section 1511 shall be immediately posted on a website and linked to the website [Recovery.gov](http://www.recovery.gov). No funds may be obligated until such posting is made. Section 1553 of the Recovery Act, which requires the Grantee to provide Whistleblower protections. As a non-Federal employer, the Grantee is required to post a notice of the rights and remedies provided under this section. The whistleblower program requirements and poster are available at the following web site: <http://www.recovery.gov/?q=content/whistleblower-information>.
- h) Section 1554 of the Recovery Act, which requires the Grantee to award contracts as fixed-price contracts to the maximum extent possible through the use of competitive procedures. In the rare circumstances where the Grantee does not

TIGER Grant Agreement for Union Depot, St Paul, MN

award fixed-price contracts and does not use competitive procedures, the Grantee shall publicly and electronically post a summary of such contracts.

- i) The Single Audit Act Amendments of 1996 and the Office of Management and Budget's (OMB) Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" (Single Audit Information requirements for Recipients of Recovery Act Funds (regulations at 2 C.F.R. Part 176.210)), which govern the tracking and documentation of all Recovery Act expenditures. This includes compliance with Federal regulations requiring conduct of a federally-approved audit of any expenditure of funds of \$500,000 or more in a year in Federal awards. See Attachment B, Recovery Act Requirements and Contract Clauses, for requirements and more information on Single Audit Information compliance.
- j) The "New Restrictions On Lobbying," (49 C.F.R. Part 20 [located at: <http://www.dot.gov/ost/m60/grant/49cfr20.htm>].
- k) The "Cost Principles for State and Local Governments" 2 C.F.R. Part 225 (OMB Circular A-87), or other applicable cost principles, depending upon the grantee [located at: <http://www.whitehouse.gov/omb/circulars/a087/a087-all.html>].
- l) OMB Circular A-102, "Grants and Grant Agreements With State and Local Governments" or other applicable requirements, depending upon the grantee [located at: <http://www.whitehouse.gov/omb/circulars/a102/a102.html>]
- m) Any other applicable Federal regulation or statute including each of the laws, regulations, executive orders, policies, guidelines, and requirements identified in Attachment B, Grant Assurances.

SECTION 4. GRANTEE AND PROJECT CONDITIONS

- a) Grantee: Ramsey County Regional Railroad Authority, as the Grantee under the TIGER Discretionary Grant Program, agrees to administer the Grant according to the conditions set forth in this Grant Agreement.

Dun and Bradstreet Data Universal Numbering System (DUNS) No. of the Grantee:
831759126

First-Tier Sub-Grantees or Sub-Recipients (if applicable – to be reported if/when identified): None

DUNS No. of First-Tier Sub-Grantee or Sub-Recipient (if applicable – to be reported if/when identified): The only recipient is RCRRA.

- b) Notices:

Notices required by this Agreement should be addressed as follows:

TIGER Grant Agreement for Union Depot, St Paul, MN

As to the Government:

Derrell Turner
Division Administrator
Federal Highway Administration
380 Jackson Street
Galtier Plaza, Suite 500
St. Paul, MN 55101-4802
(651) 291-6102
Derrell.Turner@dot.gov

and

Ed Strocko
TIGER Discretionary Program Modal Coordinator
Federal Highway Administration
1200 New Jersey Ave. SE, E84-440
Washington DC 20590
(202) 366- 2997
Ed.Strocko@dot.gov

and

Robert Mariner
United States Department of Transportation
Office of the Secretary
1200 New Jersey Avenue, SE, W84-244
Washington, DC 20590
(202) 366-8914
Robert.Mariner@dot.gov

As to the Grantee:

Julie Kleinschmidt
Ramsey County Manager
250 Courthouse
15 West Kellogg Boulevard
St. Paul, MN 55102

and

Timothy Mayasich
Director
Ramsey County Regional Railroad Authority
50 West Kellogg Blvd.

TIGER Grant Agreement for Union Depot, St Paul, MN

Suite 6560 RCGC-West
(651) 266-2762
Timothy.Mayasich@co.ramsey.mn.us

As to the Minnesota Department of Transportation:

Khani Sahebjam
Deputy Commissioner/Chief Engineer
Transportation Building
Mail Stop 110
395 John Ireland Boulevard
St. Paul, MN 55155-1899
(651) 366-4800
Khani.sahebjam@dot.state.mn.us

c) Project Description and Milestones:

- 1) Project Description: The Union Depot Multi-Modal Transit and Transportation Hub project consists of the renovation and reactivation of the historic Union Depot in downtown Saint Paul. The project involves the renovation and rehabilitation of the headhouse, waiting area and train deck. Renovation of the buildings will involve repair/replacement of all electrical and mechanical system, as well as the restoration of architectural details. The rehabilitation of the train deck will involve the repair/replacement of the deteriorating concrete elements. The train deck will be refurbished completely and rebuilt in severely deteriorated areas. Sidings and a platform for Amtrak will be constructed and drives and platforms for bus operations will be created. The Head House, Concourse and Waiting Room buildings will be restored and access points to the train deck for passengers will be reintroduced. Since the entire facility is listed on the National Register of Historic Places, the work will comply with appropriate historic standards.

- 2) State and Local Planning:

Planning Program Date: The project was approved on September 20, 2010 and appears in the 2011-2014 Transportation Improvement Program for the Twin Cities Metropolitan Area.

- 3) Environmental Process:

Environmental Approval Type: A Final Environmental Assessment for the project was published on August 24, 2009. The Finding of No Significant Impact was signed on April 26, 2010.

TIGER Grant Agreement for Union Depot, St Paul, MN

Lead Agency: Federal Highway Administration

DOT Cooperating Agency (if not Lead Agency): Federal Transit Administration

Date of Environmental Approval: April 26, 2010

Title of the Environmental Document: Union Depot Environmental Assessment August 24, 2009

4) Project Schedule (See Project Schedule, Attachment F):

Planned or Actual Construction Start Date: January 1, 2011

Planned Project Completion Date: December 28, 2012

d) Project Funding (See Project Budget, Attachment E):

1) TIGER Discretionary Grant Program Funding:

The total not-to-exceed amount of Federal funding that is provided under this Grant Agreement is Thirty-Five Million Dollars (\$35,000,000) for the entire period of performance. The Government's liability to make payments to the Grantee under this Grant Agreement is limited to those funds obligated under this Grant Agreement as indicated above and any subsequent amendments.

2) Local Financial Commitment (if any):

- A. The Grantee hereby commits and certifies that it will provide funds (and ensure the availability of other sources of funding, such as local/private funding or in-kind contributions) in an amount sufficient, together with the Federal contribution (acknowledging the limitations as set forth in this Grant Agreement), to assure timely and full payment of the project costs as necessary to complete the Project.
- B. The Grantee agrees to notify the Government within 14 calendar days of any change in circumstances or commitments that adversely affect the Grantee's plan to fund the project costs necessary to complete the Project as set forth in the Grantee's Technical Application. In its notification, the Grantee shall advise the Government of what actions it has taken or plans to take to ensure adequate funding resources and shall reaffirm its commitment to the Government as set forth in Paragraph (A) of this Section 4(d)(2). The Government is not responsible for any funding shortfalls regarding the non-TIGER Discretionary Grant amount share. The TIGER Discretionary Grant

TIGER Grant Agreement for Union Depot, St Paul, MN

Amount will remain unchanged (See Section 9 of this Grant Agreement regarding termination).

3) Grant Funds and Sources of Project Funds:

The following is the source of Project Funds for the two bid packages for the Project:

TIGER Discretionary Grant Amount:	\$35,000,000
Federal Other Share (if any):	\$49,028,535
State Share (if any):	\$4,000,000
Local Share (if any):	\$155,334,355
Other Share (if any):	\$30,0000
Total Project Cost:	\$243,392,890

The following is the source of Project Funds for bid package two, for which the TIGER Discretionary Grant will be used:

TIGER Discretionary Grant Amount:	\$35,000,000
Federal Other Share (if any):	\$
State Share (if any):	\$
Local Share (if any):	\$ 1,700,000
Other Share (if any):	\$0
Total Project Cost:	\$36,700,000

SECTION 5. REIMBURSEMENT OF PROJECT COSTS

- a) The Grantee will be reimbursed in accordance with the terms of a Project agreement for the Project that incorporates this Grant Agreement by reference.
- b) The Grantee shall have entered into obligations for services and goods associated with the Project prior to seeking reimbursement from the Government. Reimbursement will only be made for expenses incurred after execution of a project agreement.
- c) The Grantee shall ensure that the funds provided by the Government are not misappropriated or misdirected to any other account, need, project, line-item, or the like.
- d) Any Federal funds not expended in conjunction with the Project will remain the property of the Government.
- e) Financial Management System: By signing this Grant Agreement, the Grantee verifies that it has, or will implement, a financial management system adequate for monitoring the accumulation of costs and that it complies with the financial

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management system requirements of 49 C.F.R. Part 18 and Title 23. The Grantee's failure to comply with these requirements may result in Grant Agreement termination.

- f) Allowable Costs: Determination of allowable costs will be made in accordance with the applicable Federal cost principles, e.g., OMB Circular A-87. Disallowed costs are those charges determined to not be allowed in accordance with the applicable Federal cost principles or other conditions contained in this Grant Agreement.

SECTION 6. REPORTING

a) Recovery Act Reporting:

Reporting requirements under Section 1201(c)(2) of the Recovery Act, "General Provision – Department of Transportation" apply. Project reports, including information as set forth in subparagraph (2), below, shall therefore be reported to the Government in accordance with the statutory timeframes. Due to the unique timeframe for TIGER Discretionary Grant awards, Grantees should submit the first of such reports on the 20th of the month following the execution date of this Grant Agreement and on each subsequent due date thereafter. Grantees shall submit their data using the Recovery Act Data System (RADS). The RADS guidance, which includes guidance on Section 1201(c) reporting, is located at: <http://www.fhwa.dot.gov/economicrecovery/guidancelist.htm>.

- 1) Project reports for Section 1201(c) should include the amount of Grant Funds appropriated, allocated, obligated, and outlayed under the appropriation; the number of projects put out to bid under the appropriation and the amount of Grant Funds associated with these contracts; the number contracts awarded under the appropriation and the amount of Grant Funds associated with these contracts; the number of projects for which work has begun under these contracts and the associated amount of Grant Funds; the number of projects for which work has been completed and the associated amount of Grant Funds; and the number of direct, on-project jobs created or sustained by the Grant Funds for projects under the appropriation and, to the extent possible, number of direct on-project job hours (the Department calculates the number of indirect and induced jobs).
- 2) In accordance with the Recovery Act and OMB Guidance, dated June 22, 2009 (http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21.pdf), this Grant award requires the Grantee to complete projects or activities which are funded under the Recovery Act and to report on use of Recovery Act funds provided through this award to <http://www.FederalReporting.gov>. Information from these reports will be

made available to the public. Such reporting responsibility may be delegated from the Grantee/ Recipient to the Sub-grantee/ Sub-recipient or vendor, in order to ensure that the necessary information is provided to the Grantee/ Recipient, who is ultimately responsible for reporting the required elements.

The reports are due no later than ten calendar days after each calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act.

Grantees/ Recipients and their Subgrantees/ first-tier recipients (to the extent that they have been delegated direct reporting responsibility) must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active Federal awards funded with Recovery Act funds. A DUNS Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.

The Grantees/Recipients shall report the information described in section 1512(c) of the Recovery Act using the reporting instructions and data elements that will be provided online at <http://www.FederalReporting.gov> and ensure that any information that is pre-filled is corrected or updated as needed.

Projects administered by the FHWA shall comply with the reporting instructions and data elements in the Recovery Act Data System (RADS) guidance and any updates to that guidance. The RADS guidance is available online at: <http://www.fhwa.dot.gov/economicrecovery/guidancelist.htm>.

- 3) In accordance with Section 1609 of the Recovery Act, the Grantee shall submit quarterly reports, as necessary, describing the status of the Project with respect to the National Environmental Policy Act (NEPA) review. A report shall be submitted to RADS by January 5, 2011, and every 90 days thereafter following the execution of this Grant Agreement. Due to the unique timeframe for TIGER Discretionary Grant awards, Grantees should submit the first of such reports on the first due date following the execution date of this Grant Agreement and on each subsequent due date thereafter.
- 4) In accordance with the purposes of the Recovery Act, the Grantee may be required to submit additional information in response to requests from DOT, OMB, the Congressional Budget Office, the Government Accountability Office, or the Department of Transportation's Inspector General. The Government will inform Grantees if and when such additional reports are required.

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b) Project Reports:

- 1) Consistent with the purposes of the TIGER Discretionary Grant Program, to ensure accountability and transparency in Government spending, the Grantee shall submit quarterly progress reports in RADS or other system designated by the Government, as set forth in Attachment D: Quarterly Project Progress Reports, Format and Content, to the Government on a quarterly basis, beginning on the 20th of the first month of the calendar year quarter following the execution of the Grant Agreement, and on the 20th of the first month of each calendar year quarter thereafter until completion of the Project. The initial report shall include a detailed description, and, where appropriate, drawings, of the items funded. Addresses for submittal of reports and documents: The Grantee shall submit all required reports and documents to the Government electronically, referencing the Grant Agreement number, at the following addresses: Ed.Strocko@dot.gov.
- 2) Annual Budget Review and Program Plan: The Grantee shall submit an Annual Budget Review and Program Plan to the Government via e-mail 60 days prior to the end of each Grant Agreement year. The Annual Budget Review and Program Plan shall provide a detailed schedule of activities, estimate of specific performance objectives, include forecasted expenditures, and schedule of milestones for the upcoming Grant Agreement year. If there are no proposed deviations from the Approved Project Budget, attached hereto as Attachment E, the Annual Budget Review shall contain a statement stating such. The Recipient will meet with DOT to discuss the Annual Budget Review and Program Plan. If there is an actual or projected project cost increase, the annual submittal should include a written plan for providing additional sources of funding to cover the project budget shortfall or supporting documentation of committed funds to cover the cost increase.

To the extent the annual budget update deviates from the approved project budget by more than 10 percent, then work proposed under the Annual Budget Review and Program Plan shall not commence until written approval from the Government is received.

c) Milestones/Deliverables Schedule: Attachment H is incorporated herein.

Closeout Process: Closeout occurs when all required project work and all administrative procedures described in 49 C.F.R. part 18 (or part 19 or Title 23 as applicable) are completed, and the Government notifies the Grantee and forwards the final Federal assistance payment, or when the Government acknowledges Grantee's remittance of the proper refund. Within 90 days of the Project completion date or termination by the Government, the Grantee must submit a final Financial Status Report (XF-269), a certification or summary of project expenses, and third party audit reports.

SECTION 7. SPECIAL GRANT REQUIREMENTS

- a) The Grantee agrees to comply with applicable terms and conditions set forth in Title 23, United States Code, Highways, the regulations issued pursuant thereto, and the policies and procedures promulgated by the FHWA relative to the project.
- b) All contracts utilizing TIGER Grant funds shall be considered Full Federal Oversight as set forth in the FHWA – Mn/DOT Stewardship Plan dated December 2007.
- c) DESIGNATION. The RCRRA designates the Minnesota Department of Transportation (Mn/DOT) to act as its agent to accept and disburse federal funds made available for the Project. For details on the procedures to follow see: <http://www.dot.state.mn.us/stateaid/dcp/dcpchecklist.htm>.

SECTION 8. ASSURANCES

The Grantee shall execute the attached assurances and certifications (See Attachment B) in conjunction with execution of this Grant Agreement and shall comply with those assurances and certifications.

SECTION 9. TERMINATION, MODIFICATION AND EXPIRATION

- a) Subject to terms set forth in this Grant Agreement, the Government reserves the right to terminate this Grant Agreement and all of its obligations associated with this Grant Agreement, unless otherwise agreed between the Grantee and the Government, if any of the following occurs:
 - 1) The Grantee fails to obtain or provide any non-TIGER Discretionary Grant contribution or alternatives approved by the Government as provided in this Grant Agreement and in accordance with the Project Schedule;
 - 2) The Grantee fails to begin construction before March 1, 2011
 - 3) The Grantee fails to begin expenditure of Grant funds by June 1, 2011
 - 4) The Grantee does not meet the conditions and obligations specified under this Grant Agreement including a material failure to comply with the Project Schedule which is beyond the reasonable control of the Grantee; or
 - 5) The Government determines that termination is in the public interest.
- b) Funds available under this Grant Agreement must be obligated on or before September 30, 2011, but once obligated, are available for liquidation and adjustment through September 30, 2016, the "Grant Termination Date." Unless otherwise specified, this Grant Agreement shall terminate on the Grant Termination Date.

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- c) Any party (Government, Grantee or Mn/DOT) may seek to amend or modify this Grant Agreement prior to the Grant Termination Date by written notice (formal letter) to the other party and in accordance with 49 C.F.R. parts 18.43 and 18.44. The Grant Agreement will be amended or modified only on mutual written agreement by both parties.

SECTION 10. AWARD AND EXECUTION OF GRANT AGREEMENT

There are four (4) identical counterparts of this Grant Agreement in typewritten hard copy; each counterpart is to be fully signed in writing by the parties and each counterpart is deemed to be an original having identical legal effect. When signed and dated by the authorized official of the Government, this instrument will constitute an Award. Upon full Execution of this Grant Agreement by the Grantee, the effective date will be the date the Government awarded funding under this Grant Agreement as set forth below.

EXECUTION BY Government

The Government executes this Grant Agreement in accordance with Public Law 111-5,
and in accordance with the above conditions and assurances.

Executed this _____ day of _____, 2010.

Derrell Turner

Division Administrator - Minnesota

EXECUTION BY Grantee

The Grantee agrees to accomplish each element of the project in compliance with the terms and conditions contained herein. The Grantee hereby authorizes the Minnesota Department of Transportation to act as its limited agent for the sole purpose to receive and distribute grant funds disbursed by the Government in accordance with the terms and conditions of this agreement.

Executed this _____ day of _____, 2010.

Grantee

(SEAL)

Julie Kleinschmidt

Ramsey County Manager

EXECUTION BY Minnesota Department of Transportation

By signature below the Minnesota Department of Transportation (Mn/DOT) acknowledges that it will be acting as a limited agent for the Grantee to assist in the receipt and disbursement of the federal grant funds obligated by this agreement. The Mn/DOT acknowledges the fiduciary duty owed to the parties to this agreement and will promptly disburse the Federal grant funds to the Grantee at Grantee's direction and instructions. Further, the Mn/DOT will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the duties it assumes under this Grant Agreement in compliance with the terms and conditions contained herein.

Executed this _____ day of _____, 2010.

Minnesota Department of Transportation

(SEAL)

Khani Sahebjam, P.E.

Deputy Commissioner/ Chief Engineer
Title

ATTACHMENT A: STATEMENT OF WORK

RCRRA is completing the project using the Construction Manager at Risk (CMAR) contracting method. The CMAR contract totals \$148.8 million and includes design, construction and contingency costs for the project. The Part 1 contract was locally funded and provided engineering and design services to bring the project to approximately a 50% level of design. The Part 2 contract, currently in final stages of negotiation, will provide complete design and construction documents and construct the project.

The first bid package will include approximately six separate specifications and will be advertised in late 2010 for construction beginning in early 2011. The initial bid package will include bids for demolition, earthwork, environmental abatement and clean-up and concrete work. This work will not be funded from the TIGER grant.

The rest of the project will be bid in a second bid package that will include approximately thirty separate specifications. The contracts that relate to rehabilitation work on the train deck will be funded with the \$35 million in TIGER funding. The precise bid packages are still in development but will include waterproofing, asphalt, passenger platforms, concrete, fencing, and trackwork.

The rest of the work will be funded by local, state, and non-TIGER federal funds.

ATTACHMENT B: GRANT ASSURANCES

OFFICE OF THE SECRETARY
DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

TITLE VI ASSURANCE
(Implementing Title VI of the Civil Rights Act of 1964, as amended)

ASSURANCE CONCERNING NONDISCRIMINATION IN FEDERALLY-ASSISTED
PROGRAMS
AND ACTIVITIES RECEIVING OR BENEFITING FROM
FEDERAL FINANCIAL ASSISTANCE

(Implementing the Rehabilitation Act of 1973, as amended, and the Americans With
Disabilities Act, as amended)

49 C.F.R. Parts 21, 25, 27, 37 and 38

RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY (the Grantee) HEREBY
AGREES THAT,

- I. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply: with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d--42 U.S.C. 2000d-4; all requirements imposed by or pursuant to: Title 49, Code of Federal Regulations, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964; and other pertinent directives so that no person in the United States shall, on the grounds of race, color, national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Grantee receives Federal financial assistance from the Department of Transportation. This assurance is required by Title 49, Code of Federal Regulations, Section 21.7(a).
- II. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply with: Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 through 1683, and 1685 through 1687, and U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, which prohibit discrimination on the basis of sex.

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- III. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply with: the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.), the Drug Abuse Office and Treatment Act of 1972, as amended (21 U.S.C. 1101 et seq.), the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended (42 U.S.C. 4541 et seq.); and any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance was made; and the requirements of any other nondiscrimination statute(s) which may apply to the Grantee.
- IV. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply with: section 504 of the Rehabilitation Act of 1973, as amended, (29 USC 794); and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance; and Part 37, Transportation Services for Individuals With Disabilities; and Part 38, Americans With Disabilities Act – Accessibility Specifications for Transportation Vehicles; and other pertinent directives so that no otherwise qualified person with a disability, be excluded from participation in, be denied the benefits of, be discriminated against by reason of such handicap, or otherwise be subjected to discrimination under any program for which the Grantee receives Federal financial assistance from the Department of Transportation. This assurance is required by Title 49, Code of Federal Regulations, Section 27.9.
- The Grantee will promptly take any measures necessary to effectuate this Grant Agreement. The Grantee further agrees that it shall take reasonable actions to guarantee that it, its contractors and subcontractors subject to the Department of Transportation regulations cited above, transferees, and successors in interest will comply with all requirements imposed or pursuant to the statutes and Department of Transportation regulations cited above, other pertinent directives, and the above assurances.
 - These assurances obligate the Grantee for the period during which Federal financial assistance is extended. The Grantee agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the statutes and Department of Transportation regulations cited above, other pertinent directives, and the above assurances.
 - These assurances are given for the purpose of obtaining Federal grant assistance under the TIGER Discretionary Grant Program and are binding on the Grantee, contractors, subcontractors, transferees, successors in interest, and all other participants receiving Federal grant assistance in the TIGER Discretionary Grant

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Program. The person or persons whose signatures appear below are authorized to sign this Grant Agreement on behalf of the Grantee.

- In addition to these assurances, the Grantee agrees to file: a summary of all complaints filed against it within the past year that allege violation(s) by the Recipient of Title VI of the Civil Rights Act of 1964, as amended, section 504 of the Rehabilitation Act of 1973, as amended; or a statement that there have been no complaints filed against it. The summary should include the date the complaint was filed, the nature of the complaint, the status or outcome of the complaint (*i.e.*, whether it is still pending or how it was resolved).

By:

Signature of Authorized Official

Timothy A. Mayasich
Name

Director
Title

Ramsey County Regional Railroad Authority
Affiliation

Date

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

DISCLOSURE OF LOBBYING ACTIVITIES

Certification for Contracts, Grants, Loans,
and Grant Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any grant agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or grant agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or grant agreement, the undersigned shall complete and submit Standard Form-LLL (Rev. 7-97), "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and grant agreements) and that all subgrantees shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By:

Signature of Authorized Official

Timothy A. Mayasich

Name

Director

Title

Ramsey County Regional Railroad Authority

Affiliation

Date

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY**

**CERTIFICATION REGARDING DRUG-FREE WORKPLACE
REQUIREMENTS
IN THE PERFORMANCE OF THE TIGER DISCRETIONARY GRANT
PROGRAM**

A. The Grantee certifies that it will, or will continue, to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's workplace, and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about--
 - (1) The dangers of drug abuse in the workplace;
 - (2) The Grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of work supported by the grant award be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment supported by the grant award, the employee will--
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of conviction. Employers of convicted employees must provide notice, including position title, to the Department. Notice shall include the order number of the grant award;
- (f) Taking one of the following actions, within 30 days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted--
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;

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(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The Grantee *may*, but is not required to, insert in the space provided below the site for the performance of work done in connection with the specific grant.

Places of Performance (street address, city, county, state, zip code). For the provision of services pursuant to the grant award, workplaces include outstations, maintenance sites, headquarters office locations, training sites and any other worksites where work is performed that is supported by the grant award.

Check [☐] if there are workplaces on file that are not identified here.

By:

Signature of Authorized Official

Timothy A. Mayasich
Name

Director
Title

Ramsey County Regional Railroad Authority
Affiliation

Date

TIGER DISCRETIONARY GRANT PROGRAM

GRANT ASSURANCES

Certification. The Grantee hereby assures and certifies, with respect to this grant, that it will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this project including but not limited to the following:

General Federal Legislation

- a. Davis-Bacon Act - 40 U.S.C. 3141, et seq.
- b. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- c. Hatch Act - 5 U.S.C. 1501, et seq.
- d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title - 42 U.S.C. 4601, et seq.
- e. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470f
- f. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469a through 469c.
- g. Native American Graves Protection and Repatriation Act - 25 U.S.C. 3001, et seq.
- h. Clean Air Act, P.L. 90-148, as amended
- i. Section 404 of the Clean Water Act, as amended 33 U.S.C. 1251, et seq.
- j. Section 7 of the Endangered Species Act, P.L. 93-205, as amended.
- k. Coastal Zone Management Act, P.L. 92-583, as amended.
- l. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a
- m. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- n. American Indian Religious Freedom Act, P.L. 95-341, as amended
- o. Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. 1101, et seq.
- p. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended - 42 U.S.C. 4541, et seq.
- q. Sections 523 and 527 of the Public Health Service Act of 1912, as amended, 42U.S.C. 290dd through 290dd-2
- r. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.
- s. Power Plant and Industrial Fuel Use Act of 1978, P.L. 100-42 - Section 403 - 42 U.S.C.8373
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 3701, et seq.
- u. Copeland Anti-kickback Act, as amended - 18 U.S.C. 874 and 40 U.S.C. 3145
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended - 16 U.S.C. 1271, et seq.
- x. Federal Water Pollution Control Act, as amended - 33 U.S.C. 1251-1376
- y. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.
- z. Americans with Disabilities Act of 1990 - 42 U.S.C. 12101, et seq.
- aa. Title IX of the Education Amendments of 1972, as amended - 20 U.S.C. 1681 through 1683, and 1685 through 1687
- bb. Section 504 of the Rehabilitation Act of 1973, as amended - 29 U.S.C. 794
- cc. American Recovery and Reinvestment Act of 2009 - P.L. 111-5
- dd. Title VI of the Civil Rights Act of 1964 - 42 U.S.C. 2000d et seq.

- ee. Title IX of the Federal Property and Administrative Services Act of 1949 - 40 U.S.C. 541, et seq.
- ff. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. 1352
- gg. Freedom of Information Act - 5 U.S.C. 552, as amended
- hh. Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. 1855
- ii. Farmlands Protection Policy Act of 1981 – 7 U.S.C. 4201
- jj. Noise Control Act of 1972 – 42 U.S.C. 4901, et seq.
- kk. Fish and Wildlife Coordination Act of 1956 – 16 U.S.C. 661
- ll. Section 9 of the Rivers and Harbors Act and General Bridge Act of 1946 - 33 U.S.C. 401
- mm. Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303 and 23 U.S.C. 138
- nn. Resource Conservation and Recovery Act of 1976 (RCRA), as amended -- 42 U.S.C. 6901, et seq.
- oo. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended -- 42 U.S.C. 9601-9657
- pp. Safe Drinking Water Act -- 42 U.S.C. 300F-300J-6
- qq. Wilderness Act -- 16 U.S.C. 1131-1136
- rr. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 -- 42 U.S.C. 6901, et seq.
- ss. Migratory Bird Treaty Act 16 U.S.C. 760c-760g

Executive Orders

- a. Executive Order 11246 - Equal Employment Opportunity
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11988 – Floodplain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12549 – Debarment and Suspension
- f. Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- g. Executive Order 13166 – Improving Access to Services for Persons With Limited English Proficiency

General Federal Regulations

- a. Interim Final Guidance on Buy American – 74 FR 18449 (April 23, 2009), 2 C.F.R. Part 176
- b. Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations – 2 C.F.R. Part 215
- c. Cost Principles for State and Local Governments – 2 C.F.R. Part 225
- d. Non-procurement Suspension and Debarment – 2 C.F.R. Part 1200
- e. Investigative and Enforcement Procedures - 14 C.F.R. Part 13
- f. Procedures for predetermination of wage rates - 29 C.F.R. Part 1
- g. Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States - 29 C.F.R. Part 3

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- h. Labor standards provisions applicable to contracts governing federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act) - 29 C.F.R. Part 5
- i. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements) - 41 C.F.R. Parts 60, et seq.
- j. Contractor Qualifications - 48 C.F.R. Part 9
- k. Uniform administrative requirements for grants and cooperative agreements to state and local governments - 49 C.F.R. Part 18
- l. New Restrictions on Lobbying - 49 C.F.R. Part 20
- m. Nondiscrimination in Federally Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 - 49 C.F.R. Part 21
- n. Uniform relocation assistance and real property acquisition for Federal and Federally assisted programs - 49 C.F.R. Part 24
- o. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance - 49 C.F.R. Part 25
- p. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance - 49 C.F.R. Part 27
- q. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation - 49 C.F.R. Part 28
- r. Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors - 49 C.F.R. Part 30
- s. Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) - 49 C.F.R. Part 32
- t. DOT's implementing ADA regulations, including the ADA Accessibility Guidelines in Part 37, Appendix A - 49 C.F.R. Parts 37 and 38
- u. Procedures for Transportation Workplace Drug and Alcohol Testing Programs - 49 C.F.R. Part 40
- v. Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs - 49 C.F.R. Part 26

Office of Management and Budget Circulars

- a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments
- b. A-102 - Grants and Grant Agreements with State and Local Governments
- c. A-133 - Audits of States, Local Governments, and Non-Profit Organizations
- d. Any other applicable OMB Circular based upon the specific TIGER Grant Recipient

Highway Federal Legislation

- a. Brooks Act (for FHWA projects, this replaces Title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541, et seq.)) - 40 U.S.C. 1101-1104

TIGER Grant Agreement for Union Depot, St Paul, MN

- b. Highway Design and Construction Standards, 23 U.S.C. 109
- c. Planning, 23 U.S.C. 134 and 135 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)
- d. Tolls, 23 U.S.C. 301 (to the extent the recipient wishes to toll an existing free facility that has received Title 23 funds in the past)
- e. Size, Weight, and Length Limitations - 23 U.S.C. 127, 49 U.S.C. 31101 et seq.

Highway Federal Regulations

- a. Planning 23 - C.F.R. Part 450 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)
- b. National Highway System Design Standards - 23 C.F.R. Part 625
- c. Manual on Uniform Traffic Control Devices - 23 C.F.R. Part 655
- d. Environmental Impact and Related Procedures - 23 C.F.R. Part 771
- e. Procedures for Abatement of Highway Traffic and Construction Noise -- 23 C.F.R. Part 772
- f. Procedures Implementing Section 4(f) of the Department of Transportation Act - 23 C.F.R. Part 774
- g. Permitting Requirements under the National Pollutant Discharge Elimination System - 40 C.F.R. Part 122

Specific assurances required to be included in grant agreements by any of the above laws, regulations, or circulars are hereby incorporated by reference into the Grant Agreement.

Responsibility and Authority of the Grantee.

1. The Grantee has the legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

2. **Funds Availability.** It has sufficient funds available for that portion of the project costs that are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under the Grant Agreement that it will own or control.

3. **Preserving Rights and Powers.**

It will not take or permit any action that would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the Grant Agreement without the written approval of the DOT, and will act promptly to acquire, extinguish, or modify any outstanding rights or claims of right of others that would interfere with such performance by the Grantee. The Grantee agrees that this will be done in a manner acceptable to the DOT.

4. Accounting System, Audit, and Record Keeping Requirements.

- a. The Grantee agrees to keep all project accounts and records that fully disclose the amount and disposition by the Grantee of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984, as amended (31 USC 7501-7507).
- b. The Grantee agrees to make available to the DOT and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the Grantee that are pertinent to the grant. The DOT may require that a Grantee conduct an appropriate audit. In any case in which an independent audit is made of the accounts of a Grantee relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

5. Minimum Wage Rates. It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this Grant Agreement that involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 3141, et seq.), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

If the wage rates established by the State of Minnesota are greater than those established by the U.S. Department of Labor then the higher rates shall be utilized.

In addition, in order to incorporate the provisions of Section 1606 of the Recovery Act, which applies Davis-Bacon Act prevailing wage requirements to projects funded directly by or assisted in whole or in part by and through the Federal Government using laborers and mechanics, the Grantee agrees to insert the clauses found in 29 C.F.R. 5.5(a) provided in Attachment B of this Grant Agreement in all Grantee contracts and grants using funds obligated to carry out this Grant Agreement.

6. Engineering and Design Services. It will award each contract or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under the Brooks Act (40 U.S.C. 1101-1104) or an equivalent qualifications-based requirement prescribed for or by the Grantee as approved by the Secretary.

7. Foreign Market Restrictions. It will not allow funds provided under this grant to be used to fund any project that uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the

TIGER Grant Agreement for Union Depot, St Paul, MN

United States in procurement and construction.

8. Relocation and Real Property Acquisition. (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 C.F.R. Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 C.F.R. Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 C.F.R. Part 24.

By:

Signature of Authorized Official

Timothy A. Mayasich
Name

Director
Title

Ramsey County Regional Railroad Authority
Affiliation

Date

OFFICE OF THE SECRETARY OF TRANSPORTATION

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS -- PRIMARY COVERED TRANSACTIONS**

2 C.F.R. Part 1200, 49 C.F.R. Part 32

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. See Nonprocurement Suspension and Debarment (2 C.F.R. Part 1200) and Government wide Requirements for Drug-Free Workplace Grants (49 C.F.R. Part 32).
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
6. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in

all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 C.F.R. part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

**Certification Regarding Debarment, Suspension, and Other Responsibility Matters -
- Primary Covered Transactions**

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

TIGER Grant Agreement for Union Depot, St Paul, MN

By: _____
Signature of Authorized Official

Timothy A. Mayasich

Name

Director

Title

Ramsey County Regional Railroad Authority
Affiliation

Date

OFFICE OF THE SECRETARY OF TRANSPORTATION
CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION -- LOWER TIER COVERED
TRANSACTIONS

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 C.F.R. part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion -- Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

By: _____
Signature of Authorized Official

Timothy A. Mayasich
Name

Director
Title

Ramsey County Regional Railroad Authority
Affiliation

Date

ATTACHMENT C

RECOVERY ACT REQUIREMENTS AND CONTRACT CLAUSES

DAVIS-BACON WAGE RATE REQUIREMENTS AND CONTRACT CLAUSES

- a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.
- b) Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 C.F.R. parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 C.F.R. 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 C.F.R. 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).
- c) Federal agencies providing grants, grant agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 C.F.R. 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).
- d) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, grant agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

SINGLE AUDIT INFORMATION FOR RECIPIENTS OF RECOVERY ACT FUNDS REQUIREMENTS

- (a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act) as required by Congress and in accordance with 2 C.F.R. 215.21 "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations" and OMB Circular A-102 "Grants and Cooperative Agreements with State and Local Governments." Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A-102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.

TIGER Grant Agreement for Union Depot, St Paul, MN

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. OMB Circular A-133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

(c) Recipients agree to separately identify to each subrecipient, and document at the time of subaward and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.

(d) Recipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

By: _____
Signature of Authorized Official

Timothy A. Mayasich
Name

Director
Title

Ramsey County Regional Railroad Authority
Affiliation

Date

**ATTACHMENT D
QUARTERLY PROGRESS REPORTS
FORMAT AND CONTENT**

The Paperwork Reduction Act approval is still pending. At this time, Attachment D is included for informational purposes. Grantees are requested to retain data for potential future reporting, to ensure that DOT records are complete (assuming clearance is granted).

The purpose of the calendar quarterly progress reports is to ensure that the project budget and schedule will be maintained to the maximum extent possible, that the project will be completed with the highest degree of quality, and that compliance with Federal regulations will be met.

The Grantee should develop a project reporting and tracking system to collect, assess and maintain project status information and data that is timely, independent, and accurate. This system should provide current information on project prosecution, progress, changes, and issues. This information should be used to identify trends and forecast project performance and to identify and proactively address challenges to eliminate major project surprises.

The need to continuously and accurately report cost increases; schedule changes; deficient quality items; and the causes, impacts, and proposed measures to mitigate these issues is paramount to effectively managing, administering, and protecting the public investment in the project. Any apparent reporting deficiencies or questionable data should be completely resolved. Ultimately, the Grantee and the Government must be fully aware of the complete status of the project, and therefore be in a position to take appropriate action if necessary.

A quarterly cost, schedule, and status report will be produced by the Grantee, and a quarterly status meeting will be held with the Grantee, the Government and other applicable agencies in attendance. The quarterly status meetings should discuss the project costs, schedules, quality issues, compliance with Federal requirements, and other status items in sufficient enough detail to allow all involved parties to be fully aware of the significant status issues and actions planned to mitigate any adverse impacts. In addition, significant issues occurring between status meetings must be communicated immediately without waiting for the next regularly scheduled meeting, with any highly significant or sensitive issues elevated immediately to the executive leadership.

The following is the required format for the quarterly status reports. At the discretion of the Government, modifications or additions can be made in order to produce a quarterly reporting format that will most effectively serve both the Grantee and the Government. It is recognized that some projects will have a more extensive quarterly status than others. In the case of smaller projects, the content of the quarterly reports will be streamlined and project status meetings will be held on a less-frequent basis.

Please note that the initial quarterly progress report should include a detailed description, and where appropriate, drawings, of the items funded.

1. Executive Summary. The executive summary should be a clear and concise summary of the current status of the project, including any major issues that have an impact on the project's scope, budget, schedule, quality, or safety. It may be done in a bulleted format. The following summary information is an example of items that should be covered in the executive summary section:

- Current total project cost (forecast) vs. latest budget vs. baseline budget. Include an explanation of the reasons for any deviations from the approved budget.
- Current overall project completion percentage vs. latest plan percentage.
- Any delays or exposures to milestone and final completion dates. Include an explanation of the reasons for the delays and exposures.
- A summary of the projected and actual dates for notices to proceed for significant contracts, start of construction, start of expenditure of TIGER Discretionary Grant funds, and project completion date. Include an explanation of the reasons for any discrepancies from the corresponding project milestone dates included in the Grant Agreement.
- Any Federal obligations and/or TIFIA disbursements occurring during the month versus planned obligations or disbursements.
- Any significant contracts advertised, awarded, or completed.
- Any significant scope of work changes.
- Any significant items identified as having deficient quality.
- Any significant safety issues.
- Any significant Federal issues such as environmental compliance, Buy America/Buy American (whichever is applicable to this Project), Davis Bacon Act Prevailing Wage requirements, etc.

2. Project Activities and Deliverables. The purpose of this section is to: (1) highlight the project activities and deliverables occurring during the previous quarter (reporting period), and (2) define the activities and deliverables planned for the next two reporting periods. Activities and deliverables to be reported on should include meetings, audits and other reviews, design packages submitted, advertisements, awards, construction submittals, construction completion milestones, submittals related to Recovery Act requirements, media or Congressional inquiries, value engineering/constructability

reviews, and other items of significance. The two reporting period "look ahead schedule" will enable the Government to accommodate any activities requiring input or assistance.

3. Action Items/Outstanding Issues. This section should draw attention to, and track the progress of, highly significant or sensitive issues requiring action and direction in order to resolve. In general, issues and administrative requirements that could have a significant or adverse impact to the project's scope, budget, schedule, quality, safety, and/or compliance with Federal requirements should be included. Status, responsible person(s), and due dates should be included for each action item/outstanding issue. Action items requiring action or direction should be included in the quarterly status meeting agenda. The action items/outstanding issues may be dropped from this section upon full implementation of the remedial action, and upon no further monitoring anticipated.

4. Project Schedule. An updated master program schedule reflecting the current status of the program activities should be included in this section. A Gantt (bar) type chart is probably the most appropriate for quarterly reporting purposes, with the ultimate format to be agreed upon between the Grantee and the Government. It is imperative that the master program schedule be integrated, i.e., the individual contract milestones tied to each other, such that any delays occurring in one activity will be reflected throughout the entire program schedule, with a realistic completion date being reported.

Narratives, tables, and/or graphs should accompany the updated master program schedule, basically detailing the current schedule status, delays and potential exposures, and recovery efforts. The following information should also be included:

- Current overall project completion percentage vs. latest plan percentage.
- Completion percentages vs. latest plan percentages for major activities such as right-of-way, major or critical design contracts, major or critical construction contracts, and significant force accounts or task orders. A schedule status description should also be included for each of these major or critical elements.
- Any delays or potential exposures to milestone and final completion dates. The delays and exposures should be quantified, and overall schedule impacts assessed. The reasons for the delays and exposures should be explained, and initiatives being analyzed or implemented in order to recover the schedule should be detailed.

5. Project Cost. An updated cost spreadsheet reflecting the current forecasted cost vs. the latest approved budget vs. the baseline budget should be included in this section. One way to track project cost is to show: (1) Baseline Budget, (2) Latest Approved Budget, (3) Current Forecasted Cost Estimate, (4) Expenditures or Commitments To Date, and (5) Variance between Current Forecasted Cost and Latest Approved Budget. Line items should include all significant cost centers, such as prior costs, right-of-way, preliminary engineering, environmental mitigation, general engineering consultant, section design contracts, construction administration, utilities, construction packages, force

accounts/task orders, wrap-up insurance, construction contingencies, management contingencies, and other contingencies. The line items can be broken-up in enough detail such that specific areas of cost change can be sufficiently tracked and future improvements made to the overall cost estimating methodology. A Program Total line should be included at the bottom of the spreadsheet.

Narratives, tables, and/or graphs should accompany the updated cost spreadsheet, basically detailing the current cost status, reasons for cost deviations, impacts of cost overruns, and efforts to mitigate cost overruns. The following information should be provided:

- Reasons for each line item deviation from the approved budget, impacts resulting from the deviations, and initiatives being analyzed or implemented in order to recover any cost overruns.
- Transfer of costs to and from contingency line items, and reasons supporting the transfers.
- Speculative cost changes that potentially may develop in the future, a quantified dollar range for each potential cost change, and the current status of the speculative change. Also, a comparison analysis to the available contingency amounts should be included, showing that reasonable and sufficient amounts of contingency remain to keep the project within the latest approved budget.
- Detailed cost breakdown of the general engineering consultant (GEC) services (if applicable), including such line items as contract amounts, task orders issued (amounts), balance remaining for tasks, and accrued (billable) costs.
- Federal obligations and/or TIFIA disbursements for the project, compared to planned obligations and disbursements.

6. Project Funding Status. The purpose of this section is to provide a status report on the non-TIGER Discretionary Grant funds necessary to complete the project. This report section should include a status update of any legislative approvals or other actions necessary to provide the non-TIGER Discretionary Grant funds to the project. Such approvals might include legislative authority to charge user fees or set toll rates, or the commitment of local funding revenues to the project. In the event that there is an anticipated or actual project cost increase, the project funding status section should include a report on the anticipated or actual source of funds to cover the cost increase and any significant issues identified with obtaining additional funding.

7. Project Quality. The purpose of this section is to: (1) summarize the Quality Assurance/Quality Control activities during the previous month (reporting period), and (2) highlight any significant items identified as being deficient in quality. Deficient items noted should be accompanied by reasons and specifics concerning the deficiencies, and corrective actions taken or planned. In addition, the agency or firm responsible for the

TIGER Grant Agreement for Union Depot, St Paul, MN

corrective action should be documented. Planned corrective actions should then be included as Action Items/Outstanding Issues.

8. Other Status Reports. The Grantee and the Government may agree that other reports may be beneficial in ensuring that project status issues are fully and openly communicated. Such reports may include the public relations plan, value engineering and constructability review plan, environmental compliance report, and/or compliance with the Buy America requirements.

ATTACHMENT E PROJECT BUDGET

The total project budget includes activities outside of the TIGER grant time frame. The TIGER funding will be spent on the train deck.

Land Acquisition/Planning	\$63,673,383
Other Design and Construction Activities	\$8,740,000
Construction Manager at Risk	
Carriageway	\$4,212,424
Building Renovation	\$55,388,579
New Construction	\$18,579,859
Train Deck	\$48,315,017
Paving/Site	\$18,393,890
Track	\$3,864,147
CMAR Total	\$148,753,916
Owner Costs and Contingency	\$22,225,591
 Total	 \$243,392,890

The following contracts contained in bid package #2 are those currently proposed to utilize TIGER funding. Because final design is still being completed and contract estimates and actual bids may change the funding amounts needed for specific phases of the work, some work may be added removed from this listing.

Contract	Description	Estimated Amount (Millions)
2.1	Site Utilities	\$1.0
2.3	Cast in place concrete	\$10.7
2.4	Masonry Restoration and Cleaning	\$2.6
2.5	Structural Steel and Steel Restoration	\$2.2
2.8	Ornamental Metals, Fences, Gate & Railings	\$1.0
2.11	Site Furnishings	\$0.3
2.13	Waterproofing	\$1.7
2.15	Metal Panels & Roofing/Sheetmetal Flashng/Trim	\$3.1
2.16	Expansion Control	\$0.6
2.17	Window Restoration	\$1.8
2.18	Aluminum Entrances, Windows, Glazing	\$2.4
2.28	Interior & Exterior Signage	\$0.5
2.29	Parking Control Equipment	\$0.3
2.32	Elevators / Escalators / Material Handling	\$2.9

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2.36	Landscaping / Irrigation	\$0.3
2.37	Asphalt Pavements and Markings	\$1.0
2.38	Site & Decorative Concrete/Permeable Pavers	\$2.0
2.39	Chain Link Fences & Gates	\$0.5
2.40	Railwork/Trackwork	\$1.8
	TOTAL	\$36.7

**ATTACHMENT F
PROJECT SCHEDULE**

Activity	Date	Description
Award Construction Manager @ Risk Contract	9/21/2010	Ramsey Cnty Rail Authority awards CM@Risk Contract for project delivery.
Bid Package #1 Site Preparation; Advertised	10/09/2010	The first 5 construction contracts are advertised for bid. Bid opening tentative for 11/4/2010. Estimated Cost \$16 Million.
Bid Package #1 Awarded	11/19/2010	Contracts awarded to lowest responsive bidder.
Bid Package #2 Depot and Train Deck Rehabilitation; Advertised	12/17/2010	Approximately 43 construction contracts are advertised for bid. Bid opening tentatively scheduled for 1/25/2011. Estimated value \$87 Million
Bid Package #2 Awarded	2/22/2011	Contracts awarded to lowest responsive bidder.
Construction begins on Bid Package #1	1/03/2011	Site preparation construction begins.
Construction begins on Bid Package #2	4/1/2011	Building and train deck rehab begins.
Substantial Completion	12/31/2012	Work substantially complete on the depot restoration and train deck rehabilitation.

ATTACHMENT G TECHNICAL APPLICATION

TIGER APPLICATION: SAINT PAUL UNION DEPOT MULTI-MODAL TRANSIT AND TRANSPORTATION HUB SEPTEMBER 15, 2009

A. FIRST PAGE OF APPLICATION AS SPECIFIED IN NOTICE

- Type of project:** The Saint Paul Union Depot Multi-Modal Transit and Transportation Hub is a passenger rail and regional transit project. It consists of the renovation of historic Union Depot and the co-location of Amtrak, intercity bus carriers, local bus and light rail services, taxis, limousines, and bicycle accommodations. The Depot will provide future capacity for High-Speed Rail and other planned intercity and light rail services.
- Location:** The project is located in the City of St. Paul, Ramsey County, Minnesota. The site is in Minnesota's Fourth Congressional District.
- Setting:** The project is located in an urban downtown setting and is expected to have a significant positive impact on downtown revitalization. The Depot is the pivotal property in a National Historic Register District and will have strong visual and pedestrian links to the surrounding urban fabric.
- Grant amount:** The requested TIGER grant is in the amount of \$135.8 million. This represents 57% of a total project cost of \$237.5 million. The non-TIGER funding partners include the Federal Highway Administration (as a Project of National or Regional Significance), the Federal Transit Administration, the State of Minnesota, and the Ramsey County Regional Railroad Authority (RCRRA).

B. CONTACT INFORMATION

The designated Project Manager and point of contact is Mr. Timothy Mayasich, Director, Ramsey County Regional Railroad Authority (RCRRA). Mr. Mayasich's contact information is:

Ramsey County Regional Railroad Authority
50 West Kellogg Boulevard, Suite 6560
St. Paul, MN 55102

Phone: (651) 266-2762
timothy.mayasich@co.ramsey.mn.us

Throughout this application, references are made to supporting materials available on the project ftp site. That address is: <ftp://TIGER2009:uniondepot@ftp.co.ramsey.mn.us>.

C. PROJECT DESCRIPTION

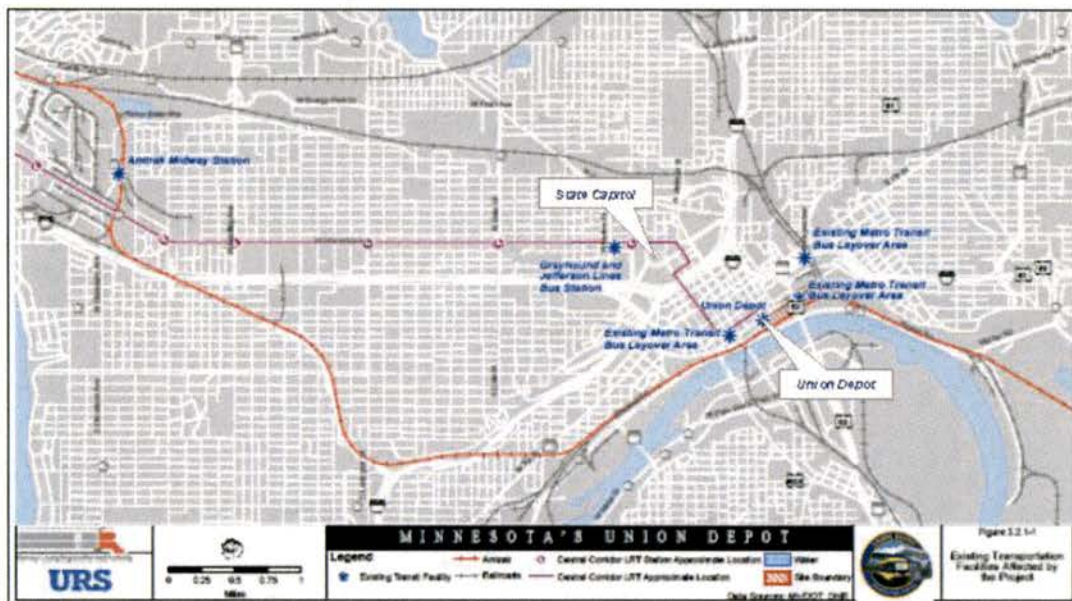
The Union Depot Multi-Modal Transit and Transportation Hub project consists of the renovation and reactivation of the historic Union Depot in downtown Saint Paul, Minnesota. After serving passenger trains from the 1920s to the 1970s, the facility has not been in passenger transportation use in over three decades. The Ramsey County Regional Railroad Authority (RCRRA), which will implement the project, owns the headhouse and a portion of the train deck, and has executed a purchase agreement by which it will take ownership of the balance of the 40-acre site by 2010. RCRRA is an affiliate of Ramsey County, governed by a Board comprised of the seven County Commissioners.

The transportation challenge which the project is designed to address is the absence, in St. Paul and the Twin Cities metropolitan region as a whole, of an efficient, sustainable, expandable multi-modal rail and transit hub to serve current and future mobility and economic needs. Today, the region's intercity rail and bus facilities are separated from each other, from the regional transit network, from pedestrian and bicycle routes, and from the surrounding urban fabric. Moreover, no facility exists which is capable of accommodating future intercity and high-speed rail development.

The Union Depot project, with a total estimated cost of \$237.5 million, will consolidate several existing transportation services into one intermodal facility. These include Amtrak, whose Empire Builder will move its Twin Cities station stop from its current location in the Midway area of Saint Paul to Union Depot. Greyhound and Jefferson Lines intercity bus companies have expressed their intent to relocate as well. Several local bus routes operated by Metro Transit and other regional providers will stop at Union Depot, allowing for seamless intermodal connections with intercity bus and rail. In 2014, the Central Corridor light rail line will open with its St. Paul terminus immediately in front of the Depot, providing light rail connections to downtown St. Paul, downtown Minneapolis, and the University of Minnesota. A map showing the project site and its connection to the transportation network is shown on the next page.

In addition to these near-term services, the project will be designed to accommodate future intercity, commuter, and high speed rail services. Of particular importance is the fact that Union Depot project will serve as a future terminus of the Chicago-Milwaukee-St. Paul line of the Midwest High Speed Rail network, as well as for the multi-corridor system contemplated in the Minnesota State Rail Plan.

Union Depot also plays a key role in the revitalization of downtown St. Paul, particularly the Lowertown district. Union Depot is listed on the National Register of Historic Places and is the pivotal building in national and local preservation districts. As described more fully in Section F.1.B, current plans adopted or in process of adoption by the City of St. Paul envision, over the next quarter-century, substantial development of a mixed-use, transit-oriented, walkable nature, stimulated in large part by the Union Depot and the Central Corridor investments. Development will include new infill construction as well as adaptive reuse of existing buildings. It will yield direct economic benefits while contributing to a more sustainable, low-carbon urban form and is emblematic of the current federal initiative to integrate transportation, land use, and environmental planning.



The project will return the Depot's trio of historic buildings (the waiting room, concourse, and head house), as well as its elevated rail yard, to active use and a state of good repair. The concourse, waiting room, and rail yard have been used by the US Postal Service for three decades as a mail handling and storage area. The headhouse is currently in mixed residential and commercial use, which will be retained as a complement to the multi-modal transportation activities. RCRRA will coordinate closely with the State Historic Preservation Officer on the renovation of the historic asset. The work will include structural improvements, track installations for Amtrak, bus bays and drives, auto and taxi access, and a bicycle storage and service facility tied to the regional trail system. (For a more detailed overview of the Depot Project, see the Project Management Plan and Finance Plan, which are available on the project ftp site.)

D. PROJECT PARTIES

The applicant is the Ramsey County Regional Railroad Authority (RCRRA), an affiliate of Ramsey County whose governing board is the Board of Commissioners of Ramsey County. RCRRA will build, own, and manage the completed facility. The remaining project parties fall into several categories:

Transportation providers. The transportation providers that will use the intermodal terminal include Amtrak; intercity bus carriers (including Greyhound and Jefferson Lines); and Metro Transit, the Twin Cities' regional transit agency. All of these providers have stated their intent to operate at the Depot and have provided information on vehicle space needs. RCRRA will negotiate leases and/or operating agreements with these parties on their internal space needs. It is expected that they will provide their own interior finish work under RCRRA approvals. Letters of support from those organizations are provided on the project ftp site.

The Central Corridor light rail line, built and operated by Metro Transit, will have its terminal stop in front of the Union Depot. As a part of the light rail investment, Metro Transit will design and build the accessibility, access, and landscaping improvements on that portion of the site, consistent with ADA and historic standards and at no cost to the Depot project.

Funding partners. As described in Section E below, the funding partners, in addition to RCRRA and the proposed TIGER grant, include the Minnesota Department of Transportation, FTA, and FHWA.

Railroads. In the near term, the only railroad to operate at the Depot will be Amtrak. However, trackage agreements will be required with two Class I railroads. Since Amtrak service already runs alongside the facility, extensive new access tracks will not be required. The first track south of the Depot is owned by Union Pacific, the other two by Canadian Pacific. Amtrak currently operates on the northernmost CP track, and will need to cross over the UP track in order to access the Depot. Meetings have been held with all parties, and detailed design will be developed as an early part of design-build activities in order to expedite discussions with the railroads.

E. GRANT FUNDS: SOURCES AND USES OF PROJECT FUNDS

The total estimated cost of the Union Depot project is \$237.5 million. Of the total, \$57.8 million is devoted to site assembly, including \$49.6 million for the train yard, concourse, and waiting room (purchased from the US Postal Service) and \$8.2 million for the headhouse (purchased from its former private owner). The \$179.7 million balance of the project cost represents design and construction. The detailed breakdown of costs, based on a 2009 estimate prepared for RCRRA, is provided in the Standard Cost Category template available on the project ftp site.

Table 1: Sources and Uses of Funds

Sources	Uses (millions of YOE dollars)		
	Right of Way	Design & Construction	TOTAL
SAFETEA-LU §1301	\$18.1	\$26.9	\$45.0
FTA §5309 (FY04,06,09)	\$0.0	\$3.1	\$3.1
State Bond Funds	\$3.5	\$9.0	\$12.5
RCRRA Funds	\$36.2	\$4.9	\$41.1
TIGER Grant	\$0.0	\$135.8	\$135.8
TOTAL	\$57.8	\$179.7	\$237.5

The requested TIGER grant amount is \$135.8 million. The overall sources of funds, and their allocation to right of way or design and construction, are as follows. The non-TIGER share is 43%, and the non-federal share is 23%.

The Union Deppt project is also the subject of a Federal Railroad Administration Track 1 HSIPR grant application, which was submitted on August 24, 2009. The FRA application is also for \$135.8 million (identical to this TIGER application), and was submitted as an alternative or complementary means of funding the balance needed to undertake the project.

E. SELECTION CRITERIA

1. Criterion 1: Long-Term Outcomes

A. State of Good Repair

A significant benefit of the Union Depot project is the investment it will make in the state of good repair of the historic Depot facilities. These include not only the three interconnected station buildings (headhouse, concourse, and waiting room), but also the elevated rail yard (or "train deck") on which all of the rail and bus operations will occur. These facilities were originally built for rail transportation and after decades of use for other activities will now be returned to that purpose. Absent the project, not only would these strategic assets not be restored to rail use, but they would deteriorate such that their future restoration would become more costly at best and infeasible at worst.

The consequences of this outcome would be significant. As determined by the LOCATE task force and confirmed in the project's EA, Union Depot is the best site for a St. Paul intermodal rail hub, and if the historic station buildings were to deteriorate beyond feasible reuse, they would have to be functionally replaced. A new station structure would have to replicate the ability of the existing complex to provide pedestrian access facing 4th Street, horizontal circulation over Kellogg Boulevard, and vertical circulation down to the train and bus platforms.

The elevated train deck carries present and future rail traffic through downtown St. Paul, including the CP and UP tracks on which both freight and passenger services operate. If

the deck were to deteriorate and fail, the cost of replacing it (or somehow removing it and bringing current and future trackage down to grade) would be tremendous. The Union Depot project includes a thorough state of good repair inspection and remediation program for the entire deck, including the portion closest to the river where the existing operating tracks are located. After project completion, Ramsey County will maintain a regular program of inspection and repair.

B. Economic Competitiveness

The next two long-term outcomes are Economic Competitiveness and Livability. In the case of Union Depot, these outcomes are closely related, in that the project's two principal sets of tangible benefits—intermodal connectivity and station-area development—contribute directly to both. To conserve space and avoid repetition, the project's transportation benefits are referenced under Economic Competitiveness and described in detail under Livability. Conversely, the project's impact on downtown development is described in detail under Livability and referenced here under Economic Competitiveness.

As defined in the TIGER Guidance, Economic Competitiveness relates to long-term growth in employment, production, or other high value economic activity, with priority consideration given to projects that:

(i) *Improve long-term efficiency, reliability, or cost-competitiveness in the movement of workers or goods.* As described in more detail in the Livability section below, the Depot project will enhance the Twin Cities' connection to the regional and national passenger rail network by providing the platform for high-speed, intercity, and commuter rail expansion and by connecting those systems to the local and regional transit network. In addition, the project will enable workers and others engaged in economic activities to realize quantifiable savings in time and vehicle operating costs.

(ii) *Make improvements that allow for net new investments in expansion, hiring, or other growth of private sector production at specific locations.* Economic competitiveness may be demonstrated by intermodalism, to the extent that such enhancements lead to the economic benefits in question. The revitalization of America's central cities is essential to the nation's long-term economic competitiveness. This is true for several reasons, including workforce participation. Many of the nation's low-income households live and work in central cities, and these cities tend to have higher unemployment rates and lower per-capita income (and more incidence of economic distress, as defined in federal law) than other communities in their metropolitan regions. The retention and growth of employment opportunities within convenient commuting range of urban populations is essential.

Moreover, although employment and capital have generally migrated out of central cities over the past five decades, essential activities remain. In a city like St. Paul, which is the state capital, there are governmental, medical, educational, medical, and civic activities that cannot easily, and should not in any event, leave the urban core. Virtually every central city in America is home to corporate employment centers whose retention is critical to an equitable and efficient distribution of opportunity.

Most important of all, it is now recognized that from a climate change and energy independence standpoint, American cannot sustain robust economic growth without reinvesting in urban centers. As demonstrated in the Urban Land Institute's recent study *Growing Cooler*, dense, mixed-use urban development that allows people to commute to work and make other daily trips by transit, on foot, or by bicycle can produce more economic activity with lower VMT, energy use, and greenhouse gas emissions. By reusing prior investments in infrastructure and building stock, and by reclaiming fixed assets like riverfronts, such development enhances the productivity of each dollar invested.

A principal purpose of the Union Depot project is to support the revitalization of downtown St. Paul as a dense, walkable, mixed-use, transit-oriented development district. The Depot project is part of a concerted public policy approach to this goal, along with the Central Corridor LRT project and the adoption by the City of TOD plans and policies.

Union Depot is the pivotal property in the Lowertown National Historic Register District and the St. Paul Lowertown Heritage Preservation District. Since 1994, it has been City policy to transform Lowertown, an area of underutilized warehouse, loft, and industrial buildings on the edge of downtown, into a vibrant, mixed-use area (similar to the juxtaposition of Denver's Lower Downtown and Union Station, where revitalization is now in full swing).

In anticipation of the Central Corridor, whose terminus will be at Union Depot's front door, the City in 2007 adopted the Central Corridor Development Strategy as part of its Comprehensive Plan and in 2009 undertook a Downtown Station Area Plan (DSAP) to provide a detailed implementation framework. The DSAP (available on the project ftp site) is currently undergoing public comment; even in advance of its adoption, it represents the most current specific view of how the downtown station areas can be developed over time.

The DSAP focuses on the LRT stations at Union Depot and at nearby 4th & Cedar, along with the surrounding quarter-mile radius of each. The stations are barely a quarter-mile apart and most of the development opportunities (including a major joint development at 4th & Cedar station) lie within a five-minute walk of the Depot. The Depot is immediately surrounded by four infill lots and the 21-acre Diamond Products redevelopment site.

The Depot occupies a pivotal role in the planned pedestrian and bicycle environment of the DSAP, which features a green street grid, enhanced links to the river, ground-floor retail, and stronger integration of the street and skyway networks.

Over the next 20 to 30 years, the DSAP envisions net new development of 5,750-7,700 residential units, 1.9 million sf of offices, and 100-150,000 sf of retail, and a hotel. The analysis presented here assumes that, due to the recession, development will not begin until 2012 and will then occur, on average, in equal annual increments through 2034—20 years from full Depot operations and 25 years from today.¹ For benefit-cost purposes, the

¹ Development, of course, does not actually occur in equal annual increments. This conservative assumption is made to push the development out in time, thereby decreasing its discounted benefit.

analysis assumes that *only* 25% of the long-term station-area buildout is attributable to the Depot. Development elsewhere in downtown, although likely to benefit from the Depot and its connection to LRT and local transit services, is not counted at all.

In Table 2, the "Total Buildout" column contains full estimated DSAP buildout.² Since the current analysis assumes that this total buildout will be achieved only if Union Depot is built, the next two columns break the total into the 75% that is assumed to occur without the Depot (the "no-build") and the 25% increment attributed to the effects of the Depot.

Table 2: Estimated Station-Area Development Buildout

Development Outcome	Total Projected 2034 Buildout	Assumed Buildout w/o Depot (75%)	Portion Attributed to Depot (25%)
Potential Number of Residential Units			
Rental	5000 – 6000		
Average	5500	4125	1375
Own	750 – 1200		
Average	975	731	244
Potential Office Space (Sq. Feet of GFA)	1,880,000	1,410,000	470,000
Potential Retail Space (Sq. Feet of GFA)			
high estimate	100 - 150,000		
Average	125,000	93,750	31,250
Potential Number of Hotel Rooms	300	225	75

The portion of the development buildout attributed to Union Depot translates into two types of direct economic benefit. The first results from the construction itself, which was estimated by applying the RIMS II Employment and Earnings Final Demand Multipliers. Starting in 2012, when development is assumed to begin, the projected benefits of this construction in the Twin Cities MSA economy is 241 jobs and \$9.3 million in earnings per year; by 2034, when the buildout is assumed to be complete, the aggregate projected benefit is 5,552 person-year jobs and \$91.3 million in total discounted earnings. In Ramsey County, which includes St. Paul, the annual benefits are 59 jobs and \$2.3 million in earnings; the aggregate benefit through 2034 is 1,352 jobs and \$23.1 million in discounted earnings.

The second and much larger long-term impact is derived from the permanent office and retail jobs created by the station area development: 213 such jobs by 2014, 496 by 2018 (the fifth year of Depot operations), and 1,629 by 2034. From 2012 through 2034, the cumulative earnings of this expanding pool of employment, discounted conservatively at 7%, is approximately \$395 million.

This analysis, and its underlying methodological assumptions, are described in further detail in the Station Area Development Technical Memorandum, available on the project ftp site. Station-area development also results in quantifiable transportation and

² City of St. Paul, *Downtown Station Area Plan*, 2009; page 11.

sustainability benefits, as residents and employees alike make a disproportionate share of their trips by transit and on foot. (See the Livability and Sustainability sections below.)

C. Livability

The role of Union Depot in promoting mixed-use, transit-oriented, pedestrian-friendly development constitutes a clear livability benefit for St. Paul and the region. The description contained in the preceding section and in the Downtown Station Area Plan (DSAP) should be considered an integral part of this section as well.

The TIGER Guidance defines livability benefits as those that (1) *will significantly enhance user mobility through the creation of more convenient transportation options for travelers;* (2) *improve existing transportation choices by enhancing points of modal connectivity or by reducing congestion on existing modal assets;* (3) *improve accessibility and transport services for economically disadvantaged populations, non-drivers, senior citizens, and persons with disabilities;* or (4) *is the result of a planning process which coordinated transportation and land-use planning decisions and encouraged community participation.* Livability improvements may include projects for new or improved biking and walking infrastructure, with particular attention to the degree to which such projects contribute to intermodal connections, or improved connections between residential and commercial areas. While the Guidance says that these benefits will be assessed qualitatively, we have been able to estimate these benefits quantitatively as well.

Union Depot will become one of the great intermodal passenger hubs in the country, combining Amtrak, high-speed rail, other future intercity corridors, and commuter rail. All of these will enjoy a seamless connection to the local and regional transit system, in the form of the Central Corridor LRT, Metro Bus, and other regional bus providers. The Depot will provide 200 sheltered and secure parking spaces for bicycles, and will be woven into the pedestrian environment of Lowertown, the riverfront, and downtown.

The project is the result of a comprehensive planning process to evaluate options for a transportation hub in Saint Paul. In 2002, the RCRRA formed a group (LOCATE) of stakeholders, made up of business, transportation, governmental, and civic leaders, to discuss locating a multimodal transportation terminal in downtown St. Paul, Minnesota. The group evaluated alternatives and assessed which transportation modes might be suitable for the facility, consistent with the adopted long range plans of the Metropolitan Council and Minnesota Department of Transportation. LOCATE recommended and RCRRA endorsed Union Depot in St. Paul as the preferred location for the multimodal transportation hub, reflecting its transportation attributes *as well as its potentially strategic role in the revitalization of downtown and Lowertown.* The Depot is included in the State Transportation Improvement Program and the Metropolitan Council's long range transportation plan, and as noted above, plays a pivotal role in the City of St. Paul's Downtown Station Area Plan.

Transportation service improvements. The project will relocate Amtrak's Twin Cities station from the existing Midway facility to the restored Union Depot. This move will improve the attractiveness, amenity value, and connectivity of the Amtrak facility.

Although Midway is located between the downtowns of Minneapolis and St. Paul, it is several miles from either and 2.5 miles from the University of Minnesota. Its actual setting is an industrial park, isolated from the urban fabric and the transit system. The relocation will enhance rail network development in two ways:

- By facilitating passenger rail service expansion. Union Depot will make Amtrak's existing Empire Builder service more attractive and competitive; accommodate future Amtrak service growth; and create a future terminus for Midwest High-Speed Rail's Chicago-Milwaukee-St. Paul corridor as well as several inter-city routes included in the Minnesota State Rail Plan. Although the Empire Builder currently operates only two trains per day, Amtrak has requested four tracks and two platforms at the Depot.
- By connecting passenger rail services to the local transit system and urban fabric. In contrast to Midway station, Union Depot will provide direct and seamless connectivity to the local and regional transit system. The Central Corridor Light Rail line, connecting the two downtowns and the University Campus, will open in 2014 with its St. Paul terminus directly in front of Union Depot. At least seven local bus lines will serve the Depot as well. The Depot will be surrounded by downtown residential and commercial development, and will provide ample parking for both automobiles and bicycles. In its 2004 letter of support of this project, Amtrak wrote, "The potential of a future station stop in downtown Saint Paul is quite appealing and presents a unique opportunity to have Amtrak serve a multi-modal transit hub housed in a historic building, with the added attraction of being convenient to downtown services."

The Union Depot project will also provide a common downtown venue for intercity passenger rail, commuter rail, and intercity bus carriers. For commuter rail, the project will provide a future rail platform with two tracks. The Twin Cities' two current intercity bus lines—Greyhound and Jefferson—will move in to Union Depot as well, replacing their current facility. The intercity lines will share a state-of-the-art island bus terminal at the train platform level of the facility, with the same access to local and regional transportation connections as the rail modes.

Estimated Transportation Benefits. The passenger transportation benefits that are expected to accrue from the Union Depot project are divided into two timeframes:

- those which will occur by 2014, when the Central Corridor light rail opens and the Depot has been operating for a year with Amtrak, intercity bus, and local buses;
- those which will occur in the future, as additional rail and transit services come on-line. These include the Northstar commuter rail (currently under construction with its terminus at Minneapolis but a potential future through-connection to St. Paul Union Depot); Red Rock commuter rail; the Chicago-Milwaukee-St. Paul high-speed rail corridor; a series of in-state and multi-state rail corridors included in the Minnesota State Rail Plan; and new transit service on the Rush Line. The year 2034 is used as the horizon for these future benefits; the 2034 transportation

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benefits also reflect the substantial amount of future mixed-use residential and commercial development which is expected to take place in the vicinity of the Depot, generating additional ridership demand on the local light rail and bus routes.

Table 3: Estimated Transportation Benefits

	2014			2034		
	No-Build	Attributable to Depot	Build	No-Build	Attributable to Depot	Build
Ridership						
Amtrak	147,791	7,389	155,180	174,985	8,751	183,736
High Speed Rail	-	-	-	-	518,345	518,345
Northstar Commuter	-	-	-	66,300	66,300	132,600
Red Rock Commuter	-	-	-	-	459,000	459,000
Minn. State Rail Plan Corridors	-	-	-	568,375	568,375	1,136,750
Intercity Bus	25,470	12,735	38,205	30,156	15,082	45,238
Light Rail	288,150	4,394	292,544	394,189	1,137,327	1,531,516
Local & Express Bus	-	4,559	4,559	-	388,738	388,738
Total	461,411	29,077	490,488	1,234,005	3,161,918	4,395,923
Reduction in Auto Trips						
Amtrak	103,454	5,172	108,626	122,490	6,126	128,615
High Speed Rail	-	-	-	-	259,173	259,173
Northstar Commuter	-	-	-	44,421	44,421	88,842
Red Rock Commuter	-	-	-	-	307,530	307,530
Minn. State Rail Plan Corridors	-	-	-	380,811	380,811	761,623
Intercity Bus	19,103	9,551	28,654	22,617	11,312	33,929
Light Rail	-	-	-	-	656,206	656,206
Local & Express Bus	-	-	-	-	199,922	199,922
Total	122,557	14,724	137,280	570,339	1,865,501	2,435,839
VMT Reduction						
Amtrak	53,278,656	2,663,735	55,942,390	63,082,093	3,154,736	66,236,828
High Speed Rail	-	-	-	-	72,332,689	72,332,689
Northstar Commuter	-	-	-	1,660,538	1,660,538	3,321,075
Red Rock Commuter	-	-	-	-	4,696,822	4,696,822
Minn. State Rail Plan Corridors	-	-	-	63,871,377	63,871,377	127,742,753
Intercity Bus	3,502,125	1,751,063	5,253,188	4,146,450	2,073,775	6,220,225
Light Rail	-	-	-	-	2,684,480	2,684,480
Local & Express Bus	-	-	-	-	133,282	133,282
Total	56,780,781	4,414,797	61,195,578	132,760,457	150,607,697	283,368,154
Travel Time Saved						
High Speed Rail	-	-	-	-	430,191	283,368,154
Northstar Commuter	-	-	-	705,405	705,405	1,410,811
Red Rock Commuter	7,265,271	363,237	7,628,508	8,602,104	3,444,336	3,444,336
Minn. State Rail Plan Corridors	-	-	-	10,707,703	10,707,703	21,415,406
Intercity Bus	(573,075)	(286,538)	(859,613)	(678,510)	(339,345)	(1,017,855)
Light Rail	-	-	-	-	-	-
Local & Express Bus	-	-	-	-	-	-
Total	6,692,196	76,699	6,768,895	19,336,702	38,094,751	57,431,453

As shown in Table 3, above the quantifiable transportation benefits associated with these pools of ridership fall into four categories: additional rail or transit ridership attributable to the Union Depot project; and, as a consequence of that additional ridership, the number of trips diverted from automobiles; the associated reduction in vehicle miles traveled (VMT); and the travel time saved.

By 2034—20 years after the Depot's first full year of operation—the *annual* estimated benefits are approximately:

- 3,162,000 rail or transit trips attributable to Union Depot
- 1,866,000 of those trips diverted from automobiles
- 150,608,000 fewer VMT than if those trips were made by automobile
- 38,095,000 minutes in travel time saved, worth \$16.5 million annually by 2034.

The assumptions and methodology used to derive these estimates are explained in detail in the Transportation Benefits Technical Memorandum, available on the project ftp site. These numbers, while based on existing data and reasonable assumptions, should be recognized as preliminary order-of-magnitude estimates.

The reduction in VMT can be monetized in two ways:

- Individual travelers save on fuel and vehicle operating costs; by 2034, these savings amount to \$242,177 annually. These benefits are reflected in the Benefit-Cost Analysis (Section F.1.F below).
- Reduced VMT translates directly into reduced greenhouse gas emissions, which can in turn be monetized. As explained in Section F.1.D below, by 2034 the greenhouse gas benefit reaches \$648,248 per year. This benefit is also reflected in the Benefit-Cost Analysis.

Finally, the long-term estimate of trips diverted from automobiles and corresponding VMT reduction associated with the project would contribute to congestion reduction in the Twin Cities region, and certainly in and around downtown St. Paul. To a lesser degree, the role of the project in facilitating high-speed rail service to Chicago would help reduce congestion in that air hub.

D. Sustainability

Greenhouse Gas Emissions. The St. Paul Union Depot project is estimated to provide significant greenhouse gas benefits to the region by encouraging travelers to shift to more efficient travel modes, relieving congestion and reducing idling traffic, and by facilitating more compact development where residents and employees travel shorter distances by auto to meet the needs of daily life.

According to the estimate developed for this application and discussed in detail in the Greenhouse Gas Emissions Technical Memorandum (available on the project ftp site), the project is estimated to reduce GHG emissions by 19,644 metric tons of carbon dioxide per year by 2034 (17,973 from direct mode shift benefits, 1,671 from congestion relief). This estimate does not yet include the GHG benefits from the project's broader land use impacts. However, the estimate does imply a fairly significant reduction in the carbon

impacts of the passenger using Union Depot – the Depot project would meet the travel demands of these passengers at roughly 20% fewer GHG emissions. Applying an estimate of \$33 per metric ton yields a monetary greenhouse gas benefit of \$648,248 per year by 2034. Discounting at 7%, the total monetized benefit through 2034 is \$1,792,458. This analysis is presented in detail in the Greenhouse Gas Emissions Technical Memorandum, available on the project ftp site, and is reflected in the Benefit-Cost Analysis.

Green building methods and technologies. RCRRRA intends to design, construct, and operate Union Depot consistent with applicable LEED standards. In addition, RCRRRA is exploring a sustainable energy partnership with District Energy St. Paul ("DESP"), a 501(c)3 non-profit utility entity that operates North America's largest hot water district energy system served by a biomass-fueled combined heat and power plant. This is described in detail in Section F.3, page 21.

Spatially clustered development. There is growing scientific and academic documentation of the fact that on a unit basis, dense, spatially-clustered, mixed-use development consumes less energy and emits lower volumes of greenhouse gases than low-density, sprawling development. This is the central premise of the Urban Land Institute's landmark 2007 report *Growing Cooler*. In a 2006 economic analysis of residential development patterns in Greater Toronto, GHG emissions per capita were found to be 2.0 to 2.5 times higher in low-density residential development over the 50-year life-span of a project. This difference reflects not only the obvious difference in automobile VMT, but differences in GHG emissions generated by building construction and on-going building operations.³

As described in detail in Section F.1.B above, the Union Depot project is expected to be a catalyst for such development in downtown St. Paul, particularly its currently under-utilized Lowertown district. The transportation analysis presented in Section F.1.C above captures some of the predictable GHG benefits, since most new station-area residents or employees who commute by light rail or local bus are assumed to be avoiding what would have been an automobile commute if they lived or worked elsewhere. However, the full impact of spatially-clustered, mixed-use development—in trips not taken at all due to walkability, as well as in building construction and operations—have not yet been quantified but should be seen as an additional qualitative benefit.

E. Safety

The Union Depot project will contribute to transportation safety by diverting up to 1,866,000 trips annually from private automobiles to rail or bus alternatives (2034). The project will also contribute to pedestrian safety in the Depot area by shifting a portion of local bus berthing and layover activities, as well as taxi and kiss-and-ride activities, from the curbside to protected off-street locations on the Depot's plaza and train deck.

³ J. Norman, H. L. Maclean, C. A. Kennedy, "Comparing high and low residential density: Life-cycle analysis of energy use and greenhouse gas emissions"; *Journal of Urban Planning and Development*, Vol. 132, No. 1. (2006), pp. 10-21.

F. Benefit-Cost Analysis

The TIGER Guidance calls for a comprehensive analysis of the project's estimated benefits and costs, insofar as the benefits align with the five types of Long-Term Outcomes described in the TIGER Guidance. These Long-Term Outcomes together constitute Selection Criterion 1. The purpose of the Benefit-Cost Analysis (BCA) is to quantify, to the extent possible, the benefits associated with these Long-Term Outcomes, to monetize these benefits, to discount them over the analytic period chosen for the analysis, and to compare the discounted aggregate value of these benefits to the discounted cost of the project.

Summary of Benefit Types

In this TIGER application, quantitative benefits are derived for three of the five Long-Term Outcome areas:

- Under *Economic Competitiveness* (Section F.1.B), a series of benefits is derived from the planned station area development. In addition, the benefits associated with the on-going operation of the Depot itself (Section F.2.A) are included.
- Under *Livability* (Section F.1.C), a series of benefits is derived from the transportation improvements that the Depot project will make possible. These include travel time savings and vehicle operation cost savings.
- Under *Sustainability* (Section F.1.D), the reduction in automobile travel attributable to the project is translated into reduced greenhouse gas (GHG) emissions.

It should be noted that additional benefits associated with the Depot project could not be quantified at this time. These include significant benefits with respect to State of Good Repair (Section F.1.A), some benefits with respect to Safety (Section F.1.E), and GHG benefits related to the compact, sustainable development pattern around the future Depot. While these additional benefits do not enter into the BCA, they should be taken into account from a qualitative standpoint.

Similarly, it should be understood that the anticipated station area development, while "counted" under economic competitiveness, will contribute to the city and region's livability as well. The reverse is true for the projected transportation benefits—while counted under livability, these improvements will plainly contribute to economic competitiveness as well.

Calculation of the Benefit-Cost Ratio

The discounted analysis of project benefits requires that two parameters be specified: the discount rate, and the timeframe.

- As directed in the TIGER Guidance and amplified in the August 28 Q&A response, our analysis uses 7% as the primary discount rate, but also replicates the

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discounting analysis using a 3% rate. All benefits are stated in 2010 dollars, discounted to the current year (2009).

- As for the timeframe, this application defines 2014 as the first full year of Depot operations. While AMTRAK will begin operating in FY 2013, the full complement of services (including intercity bus lines, local buses, and Central Corridor light rail) will be present in FY 2014. The benefit period ends 20 years later, in FY 2034.

The denominator of the benefit-cost ratio is the project cost. Our analysis uses two alternative definitions of project cost:

- Alternative "A" is the total cost of construction and soft costs going forward. In 2010 dollars, this cost is \$164.4 million (the number on which all stimulus-related job creation and earnings projections were based). When discounted at 7%, this cost becomes \$143.2 million; at 3%, it becomes \$154.7 million.
- Alternative "B" adds \$57.8 million in ROW costs (most of it already spent) and \$3.2 million in soft costs already expended, for a total of \$61 million. When added to the 7% and 3% discounted costs, total project costs of \$204.2 million and \$215.7 million are obtained.

The Benefit-Cost Analysis and its results are summarized in Table 4 below. There are four benefit-cost ratios, reflecting the 7% and 3% discount rates and the two alternative definitions of project costs. The ratios range from 2.51 to 5.99; the highlighted value of 3.57 represents the conservative 7% discount rate and the project cost exclusive of the mostly sunk ROW cost.

Table 4: Summary of Benefit Cost Analysis

Benefit Type	Twin Cities MSA	
	Discount 7%	Discount 3%
Depot Operations	\$ 7,413,494	\$ 12,282,967
Station Area Development:		
Construction Earnings	\$ 91,346,206	\$ 143,804,523
Earnings from Jobs	\$ 394,968,878	\$ 728,804,487
Transportation:		
Value of Time Saved	\$ 15,673,653	\$ 36,836,544
Vehicle Op. Costs Saved	\$ 669,635	\$ 1,325,830
GHG Emission Reduction	\$ 1,792,458	\$ 3,548,939
Total	\$ 511,864,324	\$ 926,603,290
Project Cost:		
Alt. A: Construction & Soft Costs	\$ 143,188,491	\$ 154,686,741
Alt. B: Construction, Soft & ROW	\$ 204,188,491	\$ 215,686,741
Benefit-Cost Ratio		
Cost Alternative A	3.57	5.99
Cost Alternative B	2.51	4.30

Contents of the Benefit-Cost Analysis

The full BCA consists of this summary, plus a Technical Memorandum which includes three spreadsheet attachments displaying, for different sets of benefits, the applicable assumptions and inputs followed by the discounted stream of benefits for the years 2014 to 2034. These spreadsheets yield the 7% and 3% aggregate totals represented in Table 4 above. The three spreadsheets are:

- Calculation of Discounted Benefits: Station Area Development
- Calculation of Discounted Benefits: Union Depot Operations
- Calculation of Discounted Benefits: Transportation (including greenhouse gas reductions)

The underlying methodologies that were used to derive the estimated benefits themselves are detailed in the other Technical Memoranda: Station Area Development; Transportation; and Greenhouse Gases. The analyses developed in these Technical Memoranda are summarized in the corresponding sections of the main application document.

2. Criterion 2: Job Creation and Economic Stimulus

A. Job Creation from Project Construction and Operation

In 2010 dollars, the project has a total cost of \$225.3 million (\$237.5 in \$YOE). Of the \$2010 total, \$164.4 million will be expended during FY10-FY12 for construction and soft costs.⁴ To estimate the jobs and earnings impacts, the RIMS II Final Demand Employment and Earnings Multipliers were applied, giving the total gain in jobs and earnings, respectively, that occur in all industries for each \$1 million of output delivered by the construction industry. While not every building material or soft cost service required for the project would be produced locally, the RIMS II multipliers already reflect the supplier linkages for the industry, and thus account for this leakage from the local economy.⁵

Table 5 below summarizes the jobs and earnings generated for each year of the project's design and construction in the local economy. The row titled "MSA" contains the projections for Twin Cities metropolitan region.⁶ These near-term stimulus benefits are significant: over the three-year period, 3,062 jobs (i.e., person-years of employment) would be created, and \$117.7 million in earnings. The row titled "County" provides the analogous jobs and earning impacts for the County alone, which are also significant: over the three year period: 746 jobs and \$29.7 million in earnings. Table 6 breaks down the creation of construction-period jobs by quarter, as requested in the TIGER Guidance, and estimates the subset of *direct* jobs (as opposed to indirect and induced). A complete discussion of the methodology, including the cost basis and multipliers used, is provided in the Economic Recovery Benefits Technical Memorandum, available on the project ftp site. That Memorandum also includes more detailed breakdowns of jobs and job-hours.

Table 5: Construction Period Jobs and Earnings⁷

	Net Capital Expenditure (millions, 2010\$)				RIMS II Multipliers		Construction Period Jobs (Person-Years)				Construction Period Earnings (millions, 2010\$)			
	2010	2011	2012	Total	Empl.	Earn.	2010	2011	2012	Total	2010	2011	2012	Total
MSA	\$50.4	\$53.7	\$60.3	\$164.4	19.6865	0.7162	939	1000	1123	3062	36.1	38.4	43.2	117.7
County	\$50.4	\$53.7	\$60.3	\$164.4	4.7928	0.1810	230	244	272	746	9.1	9.7	10.9	29.7

⁴ The balance consists of \$57.8 million in right of way acquisition costs and \$3.2 million already expended for professional services; these are excluded from the jobs and earnings analysis.

⁵ Although the TIGER Guidance notes that soft costs such as engineering and design are "less likely to align well" with the Job Creation / Economic Stimulus criterion, Question 7 of the July 2, 2009 Q&A Responses clarifies that such expenditures are permitted when part of a larger construction project as they are here.

⁶ The Minneapolis-St. Paul-Bloomington, MN-WI Metropolitan Statistical Area, or "the MSA".

⁷ Sources: Bureau of Economic Analysis (BEA) RIMS II Multipliers, Ramsey County, MN Capital Costs and Minneapolis-St. Paul MSA Capital Costs (August 2009), and AECOM calculations. The multipliers used are Annual 2006 multipliers, the most current available. Because the capital costs are provided in 2010 dollars, the employment and earnings estimates deflate the capital spending to 2006 dollars, as directed in the BEA's technical notes. The deflator used is the Direct Capital Nondefense deflator from OMB Circular A-94, Table 10.1—Gross Domestic Product and Deflators Used in the Historical Tables: 1940–2014.

Table 6: Construction Period Jobs by Quarter

FY/Quarter	2010	Q1	Q2	Q3	Q4	2011	Q1	Q2	Q3	Q4	2012	Q1	Q2	Q3	Q4
MSA: Total	939	94	282	282	282	1000	250	250	250	250	1123	281	281	281	281
MSA: Direct	425	41	122	131	131	464	116	116	116	116	524	131	131	131	131
County: Total	230	23	69	69	69	244	61	61	61	61	272	68	68	68	68
County: Direct	161	18	55	44	44	156	39	39	39	39	176	44	44	44	44

In addition to the project construction impacts, Ramsey County anticipates hiring 15 direct FTEs to support the daily operations of the Depot once in service. The Direct Effects Employment Multiplier for the MSA predicts a total of 24 jobs (direct and indirect) once the facility opens, with annual earnings in the MSA estimated at \$896,785 in 2010 dollars. The total discounted MSA earnings from on-going Depot operations (discounted at 7% to 2009 dollars) is \$7.4 million. These long-term impacts are reflected in the Benefit-Cost Analysis (Section F.1.F above).

B. Opportunities for Areas or Persons Specified in the Act

To qualify as economically distressed, an area must have a per capita income 80% or less of the national average, or an unemployment rate, for the most recent available 24-month period, at least 1% greater than the national average. For areas that do not meet one of these criteria, the Secretary of Commerce may determine that an area has experienced or is about to experience a special need arising from actual or threatened severe unemployment or adjustment problems. At this time, neither Ramsey County nor its central city of St. Paul meets criterion 1 or 2. However, the jobless rate has risen rapidly in recent months: in Ramsey County, from 5.5% in July 2008 to 7.9% in July 2009; in St. Paul, from 5.9% to 8.4%, suggesting significant economic distress in the city where the project will occur.

Ramsey County has a long-standing and successful Inclusiveness in Contracting Program to encourage opportunities for local small businesses and to encourage workforce diversity. In addition, as a recipient of FTA and FHWA funding, this project will meet USDOT Disadvantaged Business Enterprise requirements.

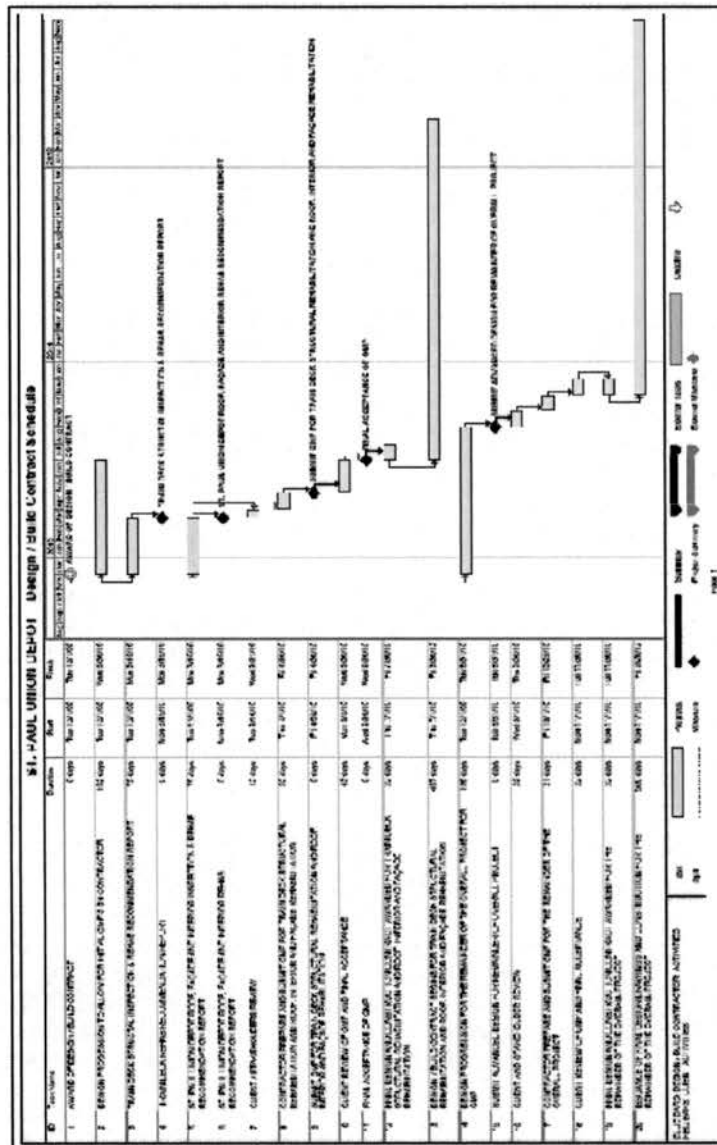
The Inclusiveness in Contracting program includes four major goals: maximizing Small Business Enterprise (SBE) contracting; workforce diversity; community outreach; and reporting procedures. The program works to maximize SBE opportunities through careful structuring of bid packages, collaboration with women and minority business organizations, and establishing aggressive subcontracting goals based on availability of SBE firms.

The program also sets goals for women and minority workforce participation on projects. The County collaborates with community-based organizations for recruitment of women and minorities and participates in community workforce programs to educate emerging workforce members and provide industry experience. The program requires reporting of subcontractor SBE participation and workforce participation by women and persons of color separately for skilled and unskilled workers.

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C. Readiness to Proceed: Timeliness of Schedule

(i) Project Schedule. The project schedule appears below. It demonstrates that the project can begin construction by July 1, 2010, and that TIGER Grant Funds will be spent steadily and expeditiously once construction starts. The creation of construction-period jobs, for each fiscal year and quarter that the project is underway, is shown in Section F.2A, page 17.



The implementation strategy underlying this schedule can be summarized as follows. RCRRRA has secured control of the entire project site, and the threshold entitlement steps—NEPA clearance and a programmatic agreement with the SHPO—are nearing completion. In conjunction with the Environmental Assessment, RCRRRA has completed a substantial level of preliminary engineering and has compiled a detailed preliminary cost estimate.

In the late summer of 2009, RCRRRA will issue a Request for Proposals for a design-build team to complete design and construction of the project. The team will be selected by the end of 2009 and will immediately begin developing two packages to approximately the 40% level of design, with a guaranteed maximum price (GMP) for each. As agreement is reached with RCRRRA on each package, the team will start final design and construction.

The first GMP package, expected to be released for construction in July 2010, will cover work which can be initiated in the near term and is not dependent on other design decisions. This includes the structural rehab of the train deck and the roof, façade, and certain interior features of the Head House, Concourse, and Waiting Room. The second GMP package will complete the project, including all vehicle and pedestrian infrastructure required for the Depot facility.

(ii) Environmental Approvals. As indicated in Section H (page 24), a Final Environmental Assessment was published on August 24, 2009, and NEPA clearance is expected in November 2009. The status of other federal, state, and local requirements is provided in Section I.

(iii) Legislative Approvals. As indicated in item (vi) below, RCRRRA possesses all necessary legislative authority to undertake the project and levy millage to support its share of the capital and operating costs. No further legislative approvals are necessary.

Evidence of support from State and local officials consists of letters from the City of St. Paul, the Minnesota High Speed Rail Commission, the City of Winona, and the City of St. Charles, all available on the project ftp site. The Minnesota Department of Transportation, in addition to being a funding partner, is the applicant for the FRA Track 1 HSIPR grant application submitted on August 24, 2009 and discussed in Section E (page 5).

(iv) State and Local Planning. The Union Depot project is included in the Metropolitan Council's Long Range Transportation Plan and in the State Transportation Improvement Program (TIP).

(v) Technical Feasibility. The project's technical feasibility has been established through the completion of substantial preliminary engineering work. In addition to the Final Environmental Assessment (www.uniondepot.org), the preliminary engineering documents include the following, which are available on the project ftp site:

- Union Depot Conceptual Engineering Plan Set (August, 2009)
- Phase I Environmental Site Assessment (May, 2008)
- Phase II Environmental Site Assessment (October, 2007)

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- Geotechnical Evaluation Report (January, 2008)
- Structural Condition Report (October, 2007)
- Saint Paul Union Depot Analysis (November, 2003).

(vi) Financial Feasibility. The total estimated cost of the Union Depot project is \$237.5 million. As described in Section E of this Application, the requested TIGER grant amount is \$135.8 million, leaving \$101.7 million from other sources. This entire balance has been identified, and the financial plan for securing the non-TIGER funds is reliable and feasible:

- The \$45.0 million in SAFETEA-LU funding is an earmark in Section 1301, Projects of National and Regional Significance, and will be available for expenditure upon the Federal Highway Administration's issuance of its Finding of No Significant Impact (expected in November, 2009).
- All of the \$3.1 million in FTA §5309 funding has been appropriated and approximately one half has been obligated.
- The Minnesota state bond funds include \$4.0 million already committed and \$8.5 million proposed.
- The \$41.1 million in RCRRRA bond funding has been committed, of which \$36.2 million has been issued and expended to complete the right-of-way assembly.⁸

RCRRRA is affiliated with Ramsey County and shares staffing resources; the County Public Works and Property Management staffs have experience with multiple large projects, including (currently or recently) the Roseville Library (\$17 million, ongoing), Century Avenue (\$12.7 million, complete 2009), the County Workhouse (\$17, million, 2009), and McKnight Road Interchange (\$29.2 million, complete 2008). The County Property Management staff manages 2.5 million square feet of public buildings.

RCRRRA was created pursuant to Minnesota's Regional Railroad Authorities Act ("the Act"; Minnesota Statutes Section 398A.01-09, which can be read in its entirety at <https://www.revisor.leg.state.mn.us/statutes/?year=2006&id=398A>). The Act authorizes RCRRRA to undertake all of the actions associated with planning, implementing, owning, and managing the Union Depot project. The Act specifically authorizes RCRRRA to levy a property tax millage of up to .04835 percent of the County's assessed valuation, separate and distinct from the County's general levy and dedicated to regional railroad purposes. For 2009, RCRRRA's levy limit is \$23,737,621, of which it currently levies \$19,938,811. By comparison, RCRRRA's 2009 operating budget is \$3,908,558. The Act further authorizes RCRRRA to issue bonds payable from dedicated levy funds.

The RCRRRA tax levy limit is sufficient to fund any operating subsidy requirement that might reasonably be expected for the Union Depot, or to fund the debt service associated with reasonably foreseeable bonding requirements in the event of a capital cost shortfall.

⁸ \$8.9 million in local funds were spent to acquire the eastern portion of the train yard; this expenditure occurred prior to FY09 and, while not included in the project cost for purposes of this application, represents further evidence of the project proponent's commitment.

3. Criterion 3: Innovation

Union Depot will be a state-of-the-art urban intermodal rail and transit hub, drawing on best practices and lessons learned from historic station projects in Washington, DC, New York, Chicago, Boston, Denver, Hoboken, Los Angeles, Memphis, San José, Toronto, and smaller rail cities like Worcester, MA. Relevant practices include physical design, pedestrian flows, information technology, ancillary development, and daily management.

RCRRA is committed to making Union Depot a model of innovative design with respect to energy and sustainability. In addition to achieving the applicable LEEDs standards, RCRRA is exploring a sustainable energy partnership with District Energy St. Paul ("DESP"), a 501(c)3 non-profit utility entity that operates North America's largest hot water district energy system served by a biomass-fueled combined heat and power plant. DESP has been a service provider to Ramsey County and Saint Paul since 1983 and is recognized as a national leader in district systems and renewable energy. DESP is prepared to collaborate with RCRRA in providing heating, cooling and snowmelt services, including the potential for groundbreaking solar alternatives.

District energy is a system for distributing heat generated in a centralized location for residential and commercial heating requirements such as space heating and water heating. This method of networking users and aggregating their thermal energy load offers advantages over single source generation and consumption, including efficiencies and fuel flexibility. District Energy St. Paul has an existing infrastructure primed to service the growing needs of the Union Depot and its patrons. Long-term advantages to utilizing district heating and cooling services include:

- Fuel flexibility: the primary fuel is clean wood residue, a renewable energy resource, but the system will continue to diversify with fuels that meet market and sustainability demands.
- Rate stability: fuel flexibility helps avoid the volatility of fossil fuel markets.
- Sustainability: using wood in Saint Paul has shifted energy dependence from fossil fuels to a clean, renewable fuel, while reducing particulate and GHG emissions.
- Reliability: St. Paul district heating and cooling services are 99.99% reliable.

Snowmelt. Snowmelt systems are a technological alternative to shoveling, salting, snowplowing, snow-blowing and other conventional removal methods. DESP utilizes its lower-temperature return water to provide snowmelt services to walkways, parking garages, and other critical pedestrian and transportation surfaces. Heated water is circulated through tubing installed below the surface and heat radiates upward to melt away snow and ice. This creates a sustainable, lower-maintenance pedestrian safety option.

Solar. A hot water district energy system can complement to the use of solar thermal systems. Installations on Union Depot can be connected to existing infrastructure and utilized within the building, with excess energy shared with the system. There are multiple zones on the Depot property that could host solar installations, allowing the project to not only increase its own sustainability, but contribute to a larger renewable system.

4. Criterion 4: Partnerships

A. Jurisdictional and Stakeholder Collaboration

The Union Depot project represents an exceptionally broad array of working partnerships, in three distinct categories:

- Intergovernmental: The implementing agency, RCRRA, is supported by the Minnesota Department of Transportation (MnDOT), the Federal Highway and Transit Administrations, and the Metropolitan Council (which is the region's MPO and transit agency). In addition to acting as funding partners, MnDOT and Metro Council have included the Depot project in the Long-Range Transportation Plan and the TIP, and Metro Council made the critical decision to build the Central Corridor light rail terminus at the Depot and undertake improvements on the 4th Street side of the property. The project is also supported by the City of St. Paul. Letters of support from local and state governmental units are on the project's ftp site.
- Public-Private: The project has the support of the transportation providers that will operate at the Depot: Amtrak, Greyhound, and Jefferson Lines. In addition, the Depot will incorporate ancillary development, which will generate additional ridership and contribute (in-cash or in-kind) to the operation of the facility. On-site development also helps create a synergistic relationship between the Depot and the surrounding blocks, where extensive station-area development is envisioned (see Section F.1.B, page 6). At present, on-site development includes residential condominiums which occupy the upper floors of the headhouse building (and were carved out of RCRRA's purchase of that property) and a restaurant in the headhouse's great hall. RCRRA is about to undertake a Joint Development Feasibility study to determine the extent to which additional ancillary development may be appropriate in the headhouse, concourse, and waiting room spaces, or on the periphery of the rail yard.
- Broad stakeholder participation. The LOCATE Task Force, which was formed by Ramsey County in 2002 to select the multi-modal hub site and still serves in a project advisory capacity, includes leaders from business, government, civic groups, and transportation stakeholders.

B. Disciplinary Integration

The Union Depot project represents, at its core, a fusion of transportation planning (particularly intermodal efficiency and connectivity) with urban development (particularly downtown revitalization through sustainable, mixed-use redevelopment). In executing the project, RCRRA will integrate the normal engineering disciplines involved in any complex rail transit hub with three other disciplines that are essential to this site: historic preservation, LEED design for existing buildings, and alternative energy generation (through the proposed alliance with District Energy St. Paul).

G. FEDERAL WAGE RATE REQUIREMENT

The required certification, signed by Timothy A. Mayasich, RCRRA Director, is provided on the project ftp site.

H. NEPA REQUIREMENT

A Final Environmental Assessment for the project was published on August 24, 2009, and is available at www.uniondepot.org. A Finding of No Significant Impact is anticipated in November, 2009. The Federal Highway Administration is the lead federal agency for NEPA, and the Federal Transit Administration is a cooperating agency.

I. ENVIRONMENTALLY RELATED FEDERAL, STATE OR LOCAL ACTIONS

In addition to the NEPA Requirement (see Section H above), the following environmentally related actions are contemplated for the Union Depot project:

- Section 106. Union Depot is a National Historic Register property, and is the pivotal building in a National Historic Register District and a locally designated Heritage Preservation District. A Draft Programmatic Agreement with the State Historic Preservation Officer (SHPO) has been developed, and is expected to be finalized shortly after the close of the Final EA comment period in October, 2009.
- Section 4(f). The Final EA includes a Draft Section 4(f) Finding, which pertains principally to the Section 106 resources. The Draft Finding demonstrates that there are no avoidance alternatives that meet the project purpose and need, and that appropriate measures to minimize and mitigation adverse impacts are incorporated into the project through the Section 106 Draft Programmatic Agreement.
- The Final EA describes in detail the other federal, state, and local environmental actions which may be applicable to the project. There appear to be no significant permitting issues. Key findings include: (i) Air Quality: The project does not create significant air quality impacts, does not require a regional air quality analysis, and does not require specific mitigation measures. The Twin Cities region is a maintenance area for CO. (ii) Wetlands: there are no wetlands on the project site. (iii) Floodplain: the site is not located in a floodplain. (iv) Water Quality: impacts are minor, and the quality of storm water discharges will be improved. (iv) Endangered Species and other wildlife-related Acts: no impacts.

J. PROTECTION OF CONFIDENTIAL BUSINESS INFORMATION

No such protection is applicable or requested.

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**ATTACHMENT H
MILESTONE/DELIVERABLE SCHEDULE**

Activity	Date
TIGER Grant Agreement Approved and Signed	October 2010
PS&E Package Submitted to FHWA	11/15/10
PS&E Approved and Project Authorized by FHWA	11/25/10
Contract Advertised	12/17/10
Bids Opened	1/25/11
Contract Awarded	2/22/11
Notice To Proceed Issued	4/1/11

ATTACHMENT I PERFORMANCE MEASURES

USAGE

MEASURES	REPORTING FREQUENCY AND TIMING
Before/ after transit facility passenger & non-passenger counts	Daily counts for a typical weekday (while schools are in session), Saturday and Sunday 1 year before the project and then again at key opening dates after project opens for revenue operations: End of 2012- Amtrak, Intercity Bus, Local Bus End of 2014- Central Corridor LRT End of 2016- Fully Operational
Before/after Union Depot user characteristics	Representative of typical weekday 1 year before project and then again at key opening dates after project opens for revenue operations: End of 2012- Amtrak, Intercity Bus, Local Bus End of 2014- Central Corridor LRT End of 2016- Fully Operational
Before /after average monthly bike and/or pedestrian users at key locations	Average monthly count (using minimum 3 day time periods) collected before the project and then yearly for 3 years starting 1 year after project completion.

Before/after transit facility passenger and non-passenger counts – Transit center improvement projects will require the collection of transit passenger counts taken approximately one year before and two and four years after the project is opened for revenue operations. The extent of the manual or automated counting program will vary according to the specific details of each project and the grantee's discussions with FTA.

Before/after Union Depot user characteristics – Union Depot user characteristics should be representative of a typical weekday, (while schools are in session.) While counts of the number of people boarding and alighting transit vehicles provide an overall magnitude of transit passenger activity, an "intercept" survey of Union Depot users is necessary whenever there is a need to sort out issues related to "linked versus unlinked" trips in a study area, as well as provide useful information regarding origin-to-destination travel patterns, travel purposes (home-based work, home-based other, etc.), transfers from one mode to another, modes of access to (and egress from) transit (walk, bike, drive alone, carpool, drop-off, etc.), and socio-economic characteristics of the transit riders (household income, vehicles available to the household, the rider's race, disability and/or driver's license status, etc.).

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Before/after average daily bike and/or pedestrian users at key locations –The project grantee would identify key locations (Sibley Ave. & Kellogg Blvd. & entrance to pedestrian skyway) and document the average monthly number of bicyclists and pedestrians using the facility based on hourly counts on a typical weekday, Saturday, and Sunday.

For new bike / pedestrian facilities where walking and/or bicycling was previously prohibited, a “before” survey will not be necessary. Manual or automatic counts can be used. Monthly counts should be based on a minimum of 3 days (i.e., to parallel weekday, Saturday, and Sunday) of data to be collected both before and after the project. Also, it is desirable to wait a minimum period (e.g., one year) after a project is completed to begin conducting the after counts.

OPERATIONS

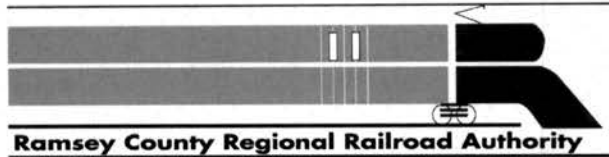
MEASURES	REPORTING FREQUENCY AND TIMING
Reduction of energy costs & green initiatives	Reports on throughout construction: LEED certification, Recycling programs etc, Average quarterly amounts collected before the project and then yearly for 3 years starting 1 year after project completion.

Before/after facility energy reduction – Union Depot will utilize modern energy efficiency ratings and fully ADA Accessible. The project grantee would identify energy savings with district heating, and kw. solar produced at the site and document green initiatives including number of reservations for HourCar/ZipCar, users for electric vehicle charging stations, recycling, etc.

STATE-OF-GOOD-REPAIR

MEASURES	REPORTING FREQUENCY AND TIMING
Train deck is not sufficient condition to support passenger rail cars and operations	Condition rating for the year before the project and then yearly for 5 years after the bridge project opens for operation under normal conditions.

Before/after bridge condition (Rating) – This measure uses the AREMA rating for rail loading.



6560 Ramsey County Government Center West
50 Kellogg Boulevard West
St. Paul, Minnesota 55102 (651) 266-2760

REGIONAL RAILROAD AUTHORITY MEETING AGENDA

November 2, 2010

Immediately following the County Board Meeting
Council Chambers - Third Floor Court House

.....
ROLL CALL and Call to Order

AGENDA of the November 2, 2010 Board Meeting is presented for approval.

MINUTES of the October 12, 2010 Board Meeting is presented for approval.

ADMINISTRATIVE AGENDA

1. Revision to funding contributions for Red Rock Corridor studies

Board Action Requested:

- 1) Approve the distribution of up to \$600,000 of the \$1,000,000 in State bond funds to the City of Hastings to be used for eligible work for the design and construction of the Park-and-Ride in Hastings; provided that said funds can be obligated prior to their expiration on December 31, 2010.
- 2) Approve the distribution of up to \$400,000 of the \$1,000,000 in State bond funds to RCRRA to be used as the local match for the East Metro Rail Capacity and Engineering Improvements Study that is being led by RCRRA on behalf of the RRCC
- 3) Approve the adjustments to funding contributions for Red Rock Corridor studies made by partner Regional Railroad Authorities
- 4) Approve the use of levy funds in an amount up to \$42,500 to match federal funds for the Economic Analysis and Development Potential Study of the Union Depot.
- 5) Approve the use of levy funds in the amount up to \$59,375 or 25% of the local match to federal funds for the Southeast Station Area and Site Master Planning Study.
- 6) Authorize the County Manager to make any necessary budget adjustments in a form approved by Budgeting and Accounting

2. Approval of a Subrecipient Agreement with the Metropolitan Council for the East Metro Rail Capacity Study

Board Action Requested:

- 1) Approve Subrecipient Agreement SG-2010-101 with the Metropolitan Council to provide up to \$400,000 in state funds for the East Metro Railroad Capacity Analysis
- 2) Authorize the Chair to execute Subrecipient Agreement SG-2010-101
- 3) Authorize the County Manager to make any necessary budget adjustments in a form approved by Budgeting and Accounting.

CORRIDOR UPDATES

ADJOURNMENT

RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY

October 12, 2010

The Ramsey County Regional Railroad Authority met with the following members present: Bennett, Carter, Ortega, Parker, Reinhardt, Rettman, McDonough – 7. Absent: 0. Also present were Julie Kleinschmidt, County Manager, and Darwin Lookingbill, Director, Civil Division, County Attorney's Office.

Chair McDonough called the meeting to order at 10:35 a.m.

AGENDA

Commissioner Reinhardt moved approval of the Agenda of the October 12, 2010 Board Meeting, seconded by Commissioner Rettman. Roll Call: Ayes – Carter, Ortega, Parker, Reinhardt, Rettman, Bennett, McDonough – 7. Nays – 0.

MINUTES

Commissioner Parker moved approval of the Minutes of the September 21, 2010 Board Meeting, seconded by Commissioner Reinhardt. Roll Call: Ayes – Carter, Ortega, Parker, Reinhardt, Rettman, Bennett, McDonough – 7. Nays – 0.

1. Public Utility Easement for Storm Sewer Purposes

Commissioner Ortega moved approval of the following resolution, seconded by Commissioner Parker. Roll Call: Ayes – Carter, Ortega, Parker, Reinhardt, Rettman, Bennett, McDonough – 7. Nays – 0. (R10-48)

WHEREAS, the CITY OF SAINT PAUL is planning storm water improvement projects including a wetland enhancement plans near the Southeast corner of Lake Phalen; and

WHEREAS, the CITY OF SAINT PAUL, a municipal corporation under the laws of the State of Minnesota, is requesting a Dedication of Easement for Public Utility Purposes agreement for a storm sewer, which will be located near the Southeast corner of Lake Phalen, North of the intersection of Johnson and Maryland, and will cross perpendicular to and under a portion of Ramsey County Regional Railroad Authority corridor property; and

WHEREAS, the Ramsey County Regional Railroad Authority supports the CITY OF SAINT PAUL's storm sewer and wetland improvements because of the positive impact it will have on the neighborhood; and

WHEREAS, the underground storm sewer installation does not appear to create any conflict for future transportation development, including the possibility of light rail; now, therefore be it

RESOLVED, The Ramsey County Regional Railroad Authority authorizes its Chair to execute a Dedication of Easement Agreement for Public Utility Purposes to the CITY OF SAINT PAUL for a storm sewer.

2. Union Depot TIGER grant agreement with the Federal Highway Administration and Minnesota Department of Transportation

Commissioner Reinhardt moved approval of the following resolution, seconded by Commissioner Parker. Roll Call: Ayes – Carter, Ortega, Parker, Reinhardt, Rettman, Bennett, McDonough – 7. Nays – 0. (R10-49)

WHEREAS, The Ramsey County Regional Railroad Authority has worked to develop the Union Depot Multi-Modal Transit Hub and other transportation projects that benefit the citizens of Ramsey County; and

WHEREAS, The RCRRA was awarded a \$35,000,000 TIGER grant for the project; and

WHEREAS, A Grant Agreement has been negotiated with the Federal Highway Administration and the Minnesota Department of Transportation to provide the funding; Now, Therefore, Be It

RESOLVED, The Ramsey County Regional Railroad Authority approve the Grant Agreement with the Federal Highway Administration and the Minnesota Department of Transportation for \$35,000,000 in funding under the TIGER program; and be it further

RESOLVED, That the Ramsey County Regional Railroad Authority authorizes the County Manager to execute the Agreement.

CORRIDOR UPDATES

Rush Line Corridor

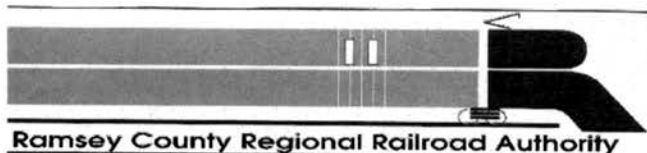
Commissioner Reinhardt reported that the 285 Express Rush Line Commuter Coach bus service is starting on Monday, October 18, 2010. She said a press release went out, the schedule is available and the service will be provided.

High Speed Rail Corridor

Commissioner Rettman reminded the Board that the High Speed Rail Summit will take place on Wednesday, October 27, 2010 at the Union Depot in St. Paul. It is necessary to RSVP to this event which has an admittance fee of \$5.00 per person. She said it should be very well attended.

ADJOURNMENT

There being no further business, Chair McDonough declared the meeting adjourned at 10:40 a.m.



REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
☒ Administrative ☐ Information

Regional Railroad Authority Meeting Date:

Regional Railroad Authority Meeting Date: **11/02/10**

SUBJECT: Revision to funding contributions for Red Rock Corridor studies

EXECUTIVE SUMMARY

The Red Rock Corridor is a 30 mile transitway corridor that originates in Hastings, travels to the Union Depot in St. Paul and continues on to Minneapolis. In 2007, the Red Rock Corridor Commission (RRCC), a joint powers board of four county regional railroad authorities (Dakota, Washington, Ramsey, and Hennepin) and municipalities, completed an Alternatives Analysis (AA) for the Corridor that identified commuter rail as the long-term transitway option for the Corridor. Since this time, the RRCC has worked to continue analysis of commuter rail to provide a better understanding of its impacts. This work includes the following studies which are currently underway:

- Southeast Station Area and Site Master Planning Study
- Economic Analysis and Development Potential Study of the Union Depot
- East Metro Rail Capacity and Engineering Improvements Study

(Executive Summary is continued on the following page.)

ACTION REQUESTED

1. Approve the distribution of up to \$600,000 of the \$1,000,000 in State bond funds to the City of Hastings to be used for eligible work for the design and construction of the Park-and-Ride in Hastings; provided that said funds can be obligated prior to their expiration on December 31, 2010.
2. Approve the distribution of up to \$400,000 of the \$1,000,000 in State bond funds to RCRRA to be used as the local match for the East Metro Rail Capacity and Engineering Improvements Study that is being led by RCRRA on behalf of the RRCC.
3. Approve the adjustments to funding contributions for Red Rock Corridor studies made by partner Regional Railroad Authorities.
4. Approve the use of levy funds in an amount up to \$42,500 to match federal funds for the Economic Analysis and Development Potential Study of the Union Depot.
5. Approve the use of levy funds in the amount up to \$59,375 or 25% of the local match to federal funds for the Southeast Station Area and Site Master Planning Study.
6. Authorize the County Manager to make any necessary budget adjustments in a form approved by Budgeting and Accounting.

SUBJECT: Revision to funding contributions for Red Rock Corridor studies

(Executive Summary continued)

The Ramsey County Regional Railroad Authority (RCRRA) is leading the Economic Analysis and Development Potential Study of the Union Depot and East Metro Rail Capacity and Engineering Improvements Study on behalf of the RRCC. The Washington County Regional Railroad Authority (WCRRA) is leading the Southeast Station Area and Site Master Planning Study.

On April 14, 2009, the RCRRA agreed to accept \$1,000,000 in Red Rock Corridor state bond funds for the completion of preliminary engineering work on the Union Depot. In return the RCRRA agreed to provide the following:

- Provide RCRRA levy funds to the WCRRA in an amount up to \$237,500 to match federal funds for the Southeast Stations Station Area Master and Site Planning Study.
- Provide RCRRA levy funds to the RRCC in amounts up to:
 - a. \$400,000 to match federal funds for the East Metro Rail Capacity and Engineering Improvements Study
 - b. \$250,000 to match federal funds for the East Metro Highway Analysis Study
 - c. \$70,000 to match federal funds for the Coordination of Corridors into downtown St. Paul Study
 - d. \$42,500 to match federal funds for the Economic Analysis and Development Potential Study of the Union Depot

During this time, work has continued on the various projects including the reconstruction of the Union Depot. Recently, it was determined that the use of RRCC state bonds for the Union Depot project would require substantial pre-design analysis. This pre-design work, if completed, would restrict the ability of the RCRRA to meet the Union Depot's timeline and delay its opening beyond 2012. Upon recognition of this issue, staff from the RCRRA and RRCC worked to develop a scenario that utilizes the state bonds prior to their expiration at the end of 2010 and allows the studies that are currently underway to continue. The following scenario was approved by the Red Rock Corridor Commission at their July 29, 2010 meeting contingent upon approval of a similar resolution from the Regional Rail Authorities of Washington County, Ramsey County, and Dakota County (DCRRA).

Red Rock State Bond Funds will be used for the following projects:

- \$600,000 to the City of Hastings for the completion of a park and ride
- \$400,000 to match federal funds for the East Metro Rail Capacity and Engineering Improvements Study

RCRRA levy funds will fund the following:

- \$42,500 for the Economic Analysis and Development Potential Study of the Union Depot
- \$59,375 for the Southeast Station Area and Site Master Planning Study (based on 25% of the local project cost of \$237,500)

These funds are available in the 2010 RCRRA operating budget.

WCRRA levy funds will fund the following:

- \$118,750 for the Southeast Station Area and Site Master Planning Study (based on 50% of the local project cost of \$237,500)

(Executive Summary is continued on the following page.)

SUBJECT: Revision to funding contributions for Red Rock Corridor studies

(Executive Summary continued)

DCRRA levy funds will fund the following:

- \$59,375 for the Southeast Station Area and Site Master Planning Study (based on 25% of the local project cost of \$237,500)

The RCRRA would no longer be responsible for funding the following:

- \$400,000 for the East Metro Rail Capacity and Engineering Improvements Study
- \$178,125 of the \$237,500 for the Southeast Station Area and Site Master Planning Study
- \$70,000 for the Coordination of Corridors into downtown St. Paul Study
- \$250,000 for the East Metro Highway Analysis Study

A local funding match for the Coordination of Corridors into downtown St. Paul and the East Metro Highway Analysis Studies will be determined once those studies are closer to initiation.

A table is included that compares the impact to the RCRRA levy between the previously agreed upon scenario and the RRCC's approved scenario described above.

Study	Original Scenario	RRCC Approved Scenario
Southeast Station Area and Site Master Planning Study	\$237,500	\$59,375
Economic Analysis and Development Potential for the Union Depot Study	\$42,500	\$42,500
East Metro Rail Capacity and Engineering Improvements Study	\$400,000	\$0
Coordination of Corridors into downtown St. Paul Study	\$70,000	\$0
East Metro Highway Analysis Study	\$250,000	\$0
Total	\$1,000,000	\$101,875

SUBJECT: Revision to funding contributions for Red Rock Corridor studies

ATTACHMENTS:

1. Red Rock Corridor Commission Resolution 2010-04
2. RCRRA Resolution R09-12

PREVIOUS ACTION:

On April 14, 2009, (Resolution R09-12) the RCRRA accepted Red Rock Corridor State Bond funds for completion of Preliminary Engineering at the Union Depot and provide RCRRA funding as the local match to federally funded Red Rock Corridor studies. RCRRA agreed to provide levy funds in an amount up to \$42,500 and \$400,000 to match federal funds for the Union Depot Economic Analysis and Development Potential Study and East Metro Railroad Capacity Analysis Study, respectively. RCRRA also agreed to provide levy funds for completion of Coordination of Corridors Study and an East Metro Highway Analysis Study.

On September 1, 2009, (Resolution R09-32) the RCRRA approved of a cooperative agreement with Washington County Regional Railroad Authority to provide up to \$237,500 of Ramsey County Regional Railroad Authority levy funds to match federal funds for the Southeast Stations Station Area Master and Site Planning Study.

On February 2, 2010, (Resolution R10-16) the RCRRA approved a contract with HR&A advisors in the amount not-to-exceed \$212,500 for completion of an Economic Analysis and Development Potential Study of the Union Depot.

On April 4, 2010, (Resolution R10-27) the RCRRA approved a contract with TranSystems Corporation in the amount not-to-exceed \$2,000,000 for completion of an East Metro Rail Capacity and Engineering Improvements Study.

COUNTY MANAGER'S COMMENTS:

The Red Rock Corridor Commission's revised funding contributions allow studies to continue thereby maximizing the benefit to the Red Rock Corridor.

SUBJECT: Revision to funding contributions for Red Rock Corridor studies

Regional Railroad Authority – Authorized Signature	Date
	10-28-10

Budgeting & Accounting – Authorized Signature	Date
	10/28/10

County Attorney – Authorized Signature	Date
	10/28/10

Property Management – Authorized Signature	Date

Information Services – Authorized Signature	Date

Other – Authorized Signature	Date

SUBJECT: Revisions to funding contributions for Red Rock Corridor studies

Draft Resolution

1 WHEREAS, The Red Rock Corridor originates in Hastings travels north to the Union Depot
2 in St. Paul and on to Minneapolis generally following Trunk Highway 61, Interstate 94, and the
3 freight tracks; and
4

5 WHEREAS, The Red Rock Corridor Commission ("RRCC") was formed in 1998 by a Joint
6 Powers Agreement to address the transportation needs of the Red Rock Corridor; and
7

8 WHEREAS, The Ramsey County Regional Railroad Authority ("RCRRA") is a member of
9 the RRCC; and
10

11 WHEREAS, The RRCC was granted State bond funds in 2005 and 2006 totaling
12 \$1,000,000 through the Metropolitan Council ("Met Council") for completion of environmental and
13 engineering work for the Red Rock Corridor; and
14

15 WHEREAS, On April 30th, 2009 the RRCC approved by Resolution (2009-02) the
16 distribution of the \$1,000,000 in state bond funds to the RCRRA for the reimbursement of eligible
17 preliminary work for the Union Depot; and
18

19 WHEREAS, In resolution R09-12, the RCRRA agreed to provide up to \$762,500 covering
20 the 20% match to federal funds for the completion of the Economic Analysis and Development
21 Potential Study of the Union Depot, Coordination of Corridors into Downtown St. Paul, East Metro
22 Highway Analysis and East Metro Rail Capacity and Engineering Improvements studies; and
23

24 WHEREAS, The RRCC has identified \$3,050,000 in federal 5339 funds to cover the
25 remaining 80% of the studies' costs; and
26

27 WHEREAS, Due to pre-design requirements governing the use of state bonds, the Union
28 Depot is no longer an eligible project to utilize Red Rock state Bonds; and
29

30 WHEREAS, This development required the RRCC to develop an action plan for use of
31 these state bond funds before they expire at the end of 2010. Now Therefore Be It
32

33 RESOLVED, That the Ramsey County Regional Railroad Authority supports the Red Rock
34 Corridor Commission's recommendation to revise the use of state bond funds and RCRRA levy for
35 Red Rock studies, and Be It Further
36

37 RESOLVED, That the Ramsey County Regional Railroad Authority approves the distribution
38 of up to \$600,000 of the \$1,000,000 in State bond funds to the City of Hastings to be used for
39 eligible work for the design and construction of the Park-and-Ride in Hastings; provided that said
40 funds can be obligated prior to their expiration on December 31, 2010, and Be It Further
41

42 RESOLVED, That the Ramsey County Regional Railroad Authority approves the distribution
43 of up to \$400,000 of the \$1,000,000 in State bond funds to RCRRA to be used as the local match
44 for the East Metro Rail Capacity and Engineering Improvements Study that is being led by RCRRA
45 on behalf of the RRCC, and Be It Further
46

6

47 RESOLVED, That the Ramsey County Regional Railroad Authority approves the
48 adjustments to funding contributions for Red Rock Corridor studies made by partner Regional
49 Railroad Authorities, and Be It Further

51 RESOLVED, That the Ramsey County Regional Railroad Authority approves the use of levy
52 funds in an amount up to \$42,500 to match federal funds for the Economic Analysis and
53 Development Potential Study of the Union Depot, and Be It Further

54
55 RESOLVED, That the Ramsey County Regional Railroad Authority approves the use of levy
56 funds in the amount up to \$59,375 or 25% of the local match to federal funds for the Southeast
57 Station Area and Site Master Planning Study, and Be It Further

58
59 RESOLVED, That the Ramsey County Regional Railroad Authority authorizes the County
60 Manager to make any necessary budget adjustments in a form approved by Budgeting and
61 Accounting.
62

**Red Rock Corridor Commission
Resolution 2010-04**

**Resolution Approving the distribution of Red Rock Corridor State
Bond Funds**

WHEREAS, the Red Rock Corridor Commission (RRCC) was granted State bond funds in 2005 and 2006 totaling \$1,000,000 through the Metropolitan Council (Met Council) for the completion of environmental and engineering work for the Red Rock Corridor; and

WHEREAS, on April 30th 2009 the RRCC approved by Resolution (2009-02) the distribution of the \$1,000,000 in state bond funds to the Ramsey County Regional Railroad Authority (RCRRA) for the reimbursement of eligible preliminary engineering work for the Union Depot; and

WHEREAS, in return, RCRRA agreed to provide in-kind matches of their levy funds to the RRCC to match federal funds for the completion of the following studies along the Red Rock Corridor in the amounts listed below:

1. \$237,500 to match federal funds for Station Area and Site Master Planning for the Southeast Stations; and
2. \$400,000 to match federal funds for the East Metro Railroad Capacity Analysis Study; and
3. \$42,500 to match federal funds for the Economic Analysis of the Minnesota Union Depot Study; and
4. \$250,000 to match federal funds for the East Metro Travel Time Benefit Study; and
5. \$70,000 to match federal funds for the Coordination of Corridors into downtown St. Paul Study; and

WHEREAS, due to pre-design requirements governing the use of State bonds, the Union Depot is no longer an eligible project to utilize Red Rock's State Bonds; and

WHEREAS, this development requires the RRCC to develop an action plan for the use of these State bond funds before they expire at the end of 2010.

NOW THEREFORE BE IT RESOLVED, that the RRCC approves the distribution of up to \$600,000 of the \$1,000,000 in State bond funds to the City of Hastings to be used for eligible work for the design and construction of the Park-&-Ride in Hastings; provided that said funds can be obligated prior to their expiration on December 31, 2010; and

BE IT FURTHER RESOLVED, that the RRCC approves the distribution of up to \$400,000 of the \$1,000,000 in State bond funds to RCRRA to be used as the local match for the East Metro Rail Capacity and Engineering Improvements Study that is being led by RCRRA on behalf of the RRCC; and

BE IT FURTHER RESOLVED, that the following adjustments to the RRCC workplan will need to be made in order to equitably balance the funding contributions between the partner Regional Railroad Authorities:

1. RCRRA shall no longer be responsible for matching the East Metro Rail Capacity and Engineering Improvements Study. State bond funds would be used to provide the \$400,000 local match to federal funds; and
2. RCRRA shall continue to be responsible for providing the \$42,500 local match for the Economic Analysis of the Union Depot Study; and
3. RCRRA shall be responsible for funding up to \$59,375 or 25% of the local match to federal funds for the Southeast Station Area project since the benefits derived from the study go beyond RCRRA; and
4. WCRRA shall be responsible for funding up to \$118,750 or 50% of the local match to federal funds for the Southeast Station Area project; and
5. DCRRA shall be responsible for funding up to \$59,375 or 25% of the local match to federal funds for the Southeast Station Area project; and
6. The funding contribution for the local match for the additional studies that have not been started shall be determined once those projects are closer to startup.

BE IT FURTHER RESOLVED, that approval is contingent upon approval by similar resolution from the Regional Rail Authorities of Washington County, Ramsey County and Dakota County

Approved:

Chairperson

Mary Peterson

July 22, 2010
Date Approved by Commission

I hereby certify that the foregoing resolution is a true and correct copy of the Resolution presented to and adopted by the Red Rock Corridor Commission at a duly authorized meeting thereof held on the 22 day of July, 2010 as shown by the minutes of said meeting in my possession.

	YES	NO	ABSTAIN	ABSENT
PETERSON	<u>X</u>	_____	_____	_____
HARRIS	<u>X</u>	_____	_____	_____
RETTMAN	_____	_____	_____	<u>X</u>
STENGLEIN	_____	_____	_____	<u>X</u>
HOLLENBECK	<u>X</u>	_____	_____	_____
KELLER	_____	_____	_____	<u>X</u>
BAILEY	<u>X</u>	_____	_____	_____
HUNZIKER	<u>X</u>	_____	_____	_____
HOPKINS	<u>X</u>	_____	_____	_____
HELGEN	_____	_____	_____	<u>X</u>
GORDON	<u>X</u>	_____	_____	_____

RESOLUTION

Board of Ramsey County Regional Railroad Authority

Date: April 14, 2009 No.: R09-12

WHEREAS, the Red Rock Corridor originates in Hastings travels north to the Union Depot in St. Paul and on to Minneapolis generally following Trunk Highway 61, Interstate 94, and the freight tracks; and

WHEREAS, the Red Rock Corridor Commission (RRCC) was formed in 1998 by a Joint Powers Agreement (JPA) to address the transportation needs of the Red Rock Corridor; and

WHEREAS, the Ramsey County Regional Railroad Authority is a member of the RRCC; and

WHEREAS, the RRCC was granted Section 5309 Federal Transit Administration (FTA) funds for the completion of environmental, engineering, and station planning work, and

WHEREAS, the RRCC was granted Section 5339 FTA funds for the completion of studies needed to progress the Corridor as part of its Alternatives Analysis process; and

WHEREAS, the RRCC was granted State Bond funds in 2005 and 2006 for the completion of environmental and engineering work for the Corridor; and

WHEREAS, the Ramsey County Regional Railroad Authority has completed station planning and environmental work on the St. Paul Union Depot; and

WHEREAS, the Ramsey County Regional Railroad Authority has secured \$4 million in federal funds for the completion of Preliminary Engineering at the St. Paul Union Depot; and

WHEREAS, a local match to federal funds is needed to complete Preliminary Engineering at the St. Paul Union Depot; and

WHEREAS, the RRCC and the Ramsey County Regional Railroad Authority have identified a need to complete additional analysis along the Red Rock Corridor to better understand the impacts of implementing commuter rail. Now Therefore Be it

RESOLVED, that the Ramsey County Regional Railroad Authority accepts state bond funds in the amount of \$1 million from the Red Rock Corridor Commission to provide the local match to previously secured federal funds for the completion of Preliminary Engineering at the St. Paul Union Depot, and be it further

RESOLVED, that the Ramsey County Regional Railroad Authority will provide levy funds to the Washington County Regional Railroad Authority in an amount up to \$237,500 to match federal funds for the Southeast Stations Station Area Master and Site Planning, and be it further

RESOLVED, that the Ramsey County Regional Railroad Authority will provide levy funds to the Red Rock Corridor Commission in an amount up to \$400,000 to match federal funds for the East Metro Railroad Capacity Analysis Study, and be it further

RESOLUTION

Board of Ramsey County Regional Railroad Authority

RESOLVED, that the Ramsey County Regional Railroad Authority will provide levy funds to the Red Rock Corridor Commission in an amount up to \$250,000 to match federal funds for the East Metro Travel Time Benefit Study, and be it further

RESOLVED, that the Ramsey County Regional Railroad Authority will provide levy funds to the Red Rock Corridor Commission in an amount up to \$70,000 to match federal funds for the Coordination of Corridors into downtown St. Paul Study, and be it further

RESOLVED, that the Ramsey County Regional Railroad Authority will provide levy funds to the Red Rock Corridor Commission in an amount up to \$42,500 to match federal funds for the Economic Analysis of the St. Paul Union Depot Study.

RESOLVED, that the Ramsey County Regional Railroad Authority authorizes the County Manager to make any necessary budget adjustments in a form approved by Budgeting and Accounting

Ramsey County Regional Railroad Authority

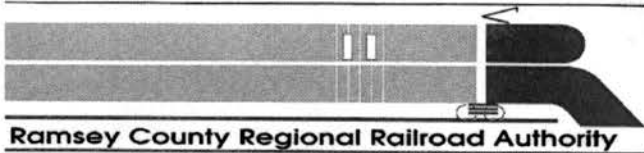
	YEA	NAY	OTHER
Tony Bennett			X
Toni Carter	X		
Rafael Ortega	X		
Victoria Reinhardt	X		
Janice Rettman	X		
Jan Parker	X		
Jim McDonough	X		

Jim McDonough, Chair

By: Tony Bennett

Tony Bennett, Secretary

11



2

REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
☒ Administrative ☐ Information

Regional Railroad Authority Meeting Date: 11/02/10

Regional Railroad Authority Meeting Date: _____

SUBJECT: Approval of a Subrecipient Agreement with the Metropolitan Council for the East Metro Rail Capacity Study

EXECUTIVE SUMMARY

Background

The Ramsey County Regional Railroad Authority (RCRRA) has worked to advance transit projects and regional transitways. The RCRRA envisions The Union Depot Multi-modal Transit and Transportation Hub (Union Depot) as the premier transit hub in the Region and the State. A previously identified challenge to achieving this vision is the rail capacity constraints within close proximity to the Union Depot. Multiple studies and conversations with the freight railroads have led to the identification of Hoffman Jct. as the major choke point and the additional choke points of Westminster Jct., the Robert St. Lift Bridge, and the rail yards south of Warner Road. Addressing capacity through these areas is critically important for passenger trains to access the Union Depot since 5% of the nation's freight traffic travels through the area. In addition to the significant freight volumes, the choke points are impacted by multiple property owners, track geometry and grades, and environmental and cultural constraints.

(Executive Summary continued on next page)

ACTION REQUESTED

1. Approve Subrecipient Agreement SG-2010-101 with the Metropolitan Council to provide up to \$400,000 in state funds for the East Metro Railroad Capacity Analysis
2. Authorize the Chair to execute Subrecipient Agreement SG-2010-101
3. Authorize the County Manager to make any necessary budget adjustments in a form approved by Budgeting and Accounting.

SUBJECT: Approval of a Subrecipient Agreement with the Metropolitan Council for the East Metro Rail Capacity Study

(Executive Summary continued)

In order to address these constraints and accomplish the multi-modal vision of the Union Depot, it was determined a rail capacity study would be prudent. In December of 2009, a Request for Proposal was published soliciting the assistance of a consultant firm to complete the aforementioned study. Proposals were received in January of 2010 and TranSystems Corporation was selected to complete the 18-month analysis of rail capacity constraints and necessary improvements.

The East Metro Rail Capacity and Engineering Improvements Study is currently underway. As part of Subrecipient Agreement SG-2009-50, the RCRRA secured federal funding in the amount of \$1,600,000 to cover 80% of the cost of this study. The remaining 20% local match (\$400,000) is currently being provided by RCRRA in accordance with Resolution R09-12. In Resolution R09-12, the RCRRA agreed to accept \$1,000,000 in Red Rock Corridor state bond funds for the completion of preliminary engineering work on the Union Depot. In return the RCRRA agreed to provide RCRRA levy funds to the Red Rock Corridor Commission (RRCC) for completion of several studies including \$400,000 to match federal funds for the East Metro Railroad Capacity Analysis Study

Following these actions, work continued on the various projects including the renovation of the Union Depot. Recently, it was determined that the use of RRCC state bonds for the Union Depot project would require substantial pre-design analysis. This pre-design work, if completed, would restrict the ability of the RCRRA to meet the Union Depot's timeline and delay its opening beyond 2012. Upon recognition of this issue, staff from the RCRRA and RRCC worked to develop a scenario that utilizes the state bonds prior to their expiration at the end of 2010 and allows the studies that are currently underway to continue. The scenario approved by the Red Rock Corridor Commission at their July 29, 2010 meeting, identified the use of 2005 and 2006 state bond funds totaling \$1,000,000 for the Red Rock Corridor for a park and ride in Hastings and as a local match to the East Metro Rail Capacity Study. To access the \$400,000 match for the East Metro Study, a Subrecipient Agreement is needed between the RCRRA and the Metropolitan Council. This agreement will not include the \$600,000 bond funds for the Hastings Park and Ride.

SUBJECT: Approval of a Subrecipient Agreement with the Metropolitan Council for the East Metro Rail Capacity Study

ATTACHMENTS:

Subrecipient Agreement SG-2010-101

PREVIOUS ACTION:

On October 6, 2009, the Ramsey County Regional Railroad Authority (RCRRA) approved Subrecipient Agreement SG-2009-050 with the Metropolitan Council to provide up to \$3,050,000 in federal funds for the following studies: the Economic Analysis for the Union Depot, Coordination of Corridors into Downtown St. Paul, East Metro Travel Time Benefit, and East Metro Railroad Capacity Analysis.

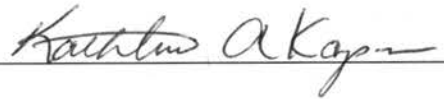
On April 6th, 2010, the RCRRA authorized the Chair and Chief Clerk to execute a contract with TranSystems Corporation, for completion of an East Metro Rail Capacity and Engineering Improvements Study for a not-to-exceed price of \$2,000,000.

COUNTY MANAGER'S COMMENTS:

The East Metro Rail Capacity Study will be beneficial to the long term success and viability of the Union Depot as well as the future build-out of regional transitways and inter-city rail connections.

SUBJECT: Approval of a Subrecipient Agreement with the Metropolitan Council for the East Metro Rail Capacity Study

Regional Railroad Authority – Authorized Signature	Date
	10-28-10

Budgeting & Accounting – Authorized Signature	Date
	10/28/10

County Attorney – Authorized Signature	Date
	10/28/10

Property Management – Authorized Signature	Date

Information Services – Authorized Signature	Date

Other – Authorized Signature	Date

SUBJECT: Approval of a Subrecipient Agreement with the Metropolitan Council for the East Metro Rail Capacity Study

Draft Resolution

1 WHEREAS, the Red Rock Corridor originates in Hastings travels north to the Union Depot
2 in St. Paul and on to Minneapolis generally following Trunk Highway 61, Interstate 94, and the
3 freight tracks; and
4

5 WHEREAS, the Red Rock Corridor Commission ("Commission") was formed in 1998 by a
6 Joint Powers Agreement to address the transportation needs of the Red Rock Corridor; and
7

8 WHEREAS, the Ramsey County Regional Railroad Authority is a member of the
9 Commission; and
10

11 WHEREAS, The railroad capacity constraints in the east metro are an obstacle to achieving
12 RCRRA's vision for the Union Depot and the build-out of the Red Rock Corridor; and
13

14 WHEREAS, A study of east metro rail capacity would be beneficial to identifying
15 improvements required for enhanced freight capacity and for the implementation of increased
16 Amtrak, commuter, inter-city, and high speed rail service to the Union Depot; and
17

18 WHEREAS, The Commission in Resolution 2009-13 authorized the Ramsey County
19 Regional Railroad Authority the use of \$1,600,000 in 5339 federal funds for the completion of a rail
20 capacity study; and
21

22 WHEREAS, The Ramsey County Regional Railroad Authority approved in Resolution R09-
23 039 a Subrecipient Agreement with the Metropolitan Council to access federal 5339 funds from the
24 Federal Transit Administration; and
25

26 WHEREAS, In 2005 and 2006, the Commission was granted bond funds from the State of
27 Minnesota totaling \$1,000,000 for completion of environmental and engineering work along the
28 Red Rock Corridor, and
29

30 WHEREAS, The Commission approved the distribution of up to \$400,000 in state bond
31 funds to cover the 20% match to federal funds for the completion of East Metro Railroad Capacity
32 Analysis, and
33

34 WHEREAS, State bond funds will be reimbursed to the RCRRA through a Subrecipient
35 Agreement with the Metropolitan Council. Now Therefore Be It
36

37 RESOLVED, That the Ramsey County Regional Railroad Authority approves Subrecipient
38 Agreement SG-2010-101 with the Metropolitan Council to provide up to \$400,000 in state funds for
39 the East Metro Railroad Capacity Analysis, and Be It Further
40

41 RESOLVED, That the Ramsey County Regional Railroad Authority authorize the Chair to
42 execute Subrecipient Agreement SG-2010-101, and Be It Further
43

44 RESOLVED, That the Ramsey County Regional Railroad Authority authorize the County
45 Manager to make any necessary budget adjustments in a form approved by Budgeting and
46 Accounting.

5

Attachment

GRANT AGREEMENT

Grantee:	Ramsey County Regional Railroad Authority	SG-2010-101
Address:	Michael Rogers Ramsey County Regional Railroad Authority 50 West Kellogg Blvd., Suite 6560 RCGC-West St. Paul, MN 55102	
Grant Project:	A grant to Ramsey County Regional Railroad Authority to support the East Metro Rail Capacity Analysis and Preliminary Engineering Improvements Analysis, which will identify the impacts and recommend solutions to freight and passenger rail constraints with the development of the Union Depot intermodal station. The \$400,000 grant will provide a portion local match for federal funds on the project.	
Maximum Grant Amount:	\$400,000	Council Action: September 22, 2010 Business Item 2010-314
Council Proceeds:	\$0.00	
State GO Bonds:	\$400,000	
Project Activity Period:	April 20, 2010 through December 31, 2011	
Grant Manager:	Cole Hiniker	

AGREEMENT

THIS AGREEMENT is made and entered into by and between the Metropolitan Council ("Council") and Ramsey County Regional Railroad Authority ("Grantee") each acting by and through their duly authorized officers.

RECITALS:

1. The Minnesota Legislature by Minnesota Laws 2005, Chapter 20, Article 1, Section 19, Subdivision 4 and Minnesota Laws 2006, Chapter 258, Section 17, Subdivision 5, as amended by 2010 Bond Language, Chapter 189, appropriated state bond funds to the Council for the Red Rock Corridor Transit Way ("State Bond Appropriation").
2. The Council desires to pass through a portion of the State Bond Appropriation to the Grantee to perform the Grant Project described above.

NOW, THEREFORE, the Council and the Grantee agree as follows:

I. GRANTEE PERFORMANCE OF GRANT PROJECT

1.01 Grant Project. The Grantee agrees to perform and complete in a satisfactory and proper manner the Grant Project specified on **Exhibit A** ("Grant Project") in accordance with the terms and conditions of this Agreement. The Grant Project details the activities to be completed by the Grantee

and conditions of this Agreement. The Grant Project details the activities to be completed by the Grantee and a proposed schedule for the completion of the Grant Project. All Grant Project activities must be consistent with the approved scope of work and the approved budget detailed below. Any proposed change in the scope of work must be submitted to the Council's Project Administrator for written approval. A change in the scope of work is not effective until the Grantee receives written approval from the Council's Grant Manager.

1.02 Approved Budget. The Grantee agrees to complete the Grant Project in accordance with the approved budget specified on **Exhibit A** ("Approved Budget"). The Approved Budget details the cost associated with each scope of work activity. Any requests for re-budgeting of project funds among the existing Approved Budget lines of the scope of work are allowable without prior approval if the amount of project funds to be transferred is ten percent (10%) or less than the Approved Budget. This Agreement must be amended for re-budgeting in excess of ten percent (10%) of the Approved Budget.

1.03 Use of Contractors. The Grantee may engage contractors to perform Grant Project activities. However, the Grantee retains primary responsibility to the Council for performance of the Grant Project and the use of such contractors does not relieve the Grantee from any of its obligations under this agreement. If the Grantee engages any contractors to perform any part of the Grant Project activities, the Grantee agrees that the contract for such services shall include provisions that will require the contractor to:

- a. maintain all records and provide all reporting as required by this agreement;
- b. defend, indemnify, and save harmless the Council from all claims, suits, demands, damages, judgments, costs, interest, and expenses arising out of or by reason of the performance of the contracted work, caused in whole or in part by any negligent act or omission of the contractor, including negligent acts or omissions of its employees, subcontractors, or anyone for whose acts any of them may be liable;
- c. provide and maintain insurance in amounts and types of coverage appropriate to the contracted work and naming the Council as an additional insured, and provide to the Grantee prior to commencement of the contracted work a certificate of insurance evidencing such insurance coverage;
- d. be an independent contractor for the purposes of completing the contracted work; and
- e. acknowledge that the contract between the Grantee and the contractor does not create any contractual relationship between the Council and the contractor.

1.04 Material Representations. The Grantee agrees that all representations contained in its application for grant assistance are material representations of fact upon which the Council relied in awarding this grant and are incorporated by reference into this agreement.

II. AUTHORIZED USE OF GRANT FUNDS

2.01 Authorized Uses. The Grantee is authorized to use the grant awarded under this agreement only for costs directly incurred for Grant Project activities during the Project Activity Period specified in paragraph 6.01. No other use of grant funds is permitted.

2.02 Compliance With Bond Proceed Laws. The Grantee agrees to comply with the provisions of all applicable state and federal laws, rules, and regulations pertaining to the use of bond proceeds. This grant is financed with bonds issued in accordance with federal arbitrage restrictions. The Grantee will not use the grant funds in any way which would cause the bonds to be classified as "Arbitrage Bonds" under the Internal Revenue Code. The Grantee will not take any action that would adversely affect the exemption from federal income taxation of the bonds or omit to take any action necessary to maintain such tax exempt status.

2.03 Acknowledgment. The Grantee acknowledges that this grant is financed using state bond funds and therefore the Project is subject to the requirements of Minnesota Statutes section 16A.695 as may be amended from time to time and the Order Amending Order of Commissioner of Finance, copies of which are attached hereto and incorporated herein to this grant as **Exhibit B** ("the Additional Provisions"). The requirements in the Additional Provisions are in addition to and do not supplant requirements found elsewhere in this agreement. If any requirement in the Additional Provisions is inconsistent with a provision found elsewhere in this agreement and is irreconcilable with such provision, the requirement in the Additional Provisions shall prevail.

2.04 Declaration as to Use of State Bond Proceeds. When state bond proceeds are used to acquire or improve real property in whole or in part, the Grantee shall cause to be recorded in the official real estate title records maintained by the county recorder for the county in which the property is located, the following declaration:

The Property is bond financed property within the meaning of Minn. Stat. §16A.695, and cannot be sold, mortgaged or otherwise disposed of by the public officer or agency which has jurisdiction over it or owns it without the approval of the Minnesota Commissioner of Finance, which approval must be evidenced by a written statement signed by the Commissioner of Finance and attached to the deed, mortgage or instrument used to sell, mortgage or otherwise dispose of the property.

Title to the Property shall remain subject to this restriction until (i) restriction has been fully complied with as evidenced by a written approval from the Minnesota Commissioner of Finance, or (ii) a written release, releasing the Property from the restriction, signed by the Commissioner of Finance, is recorded in the real estate records relating to the Property. This declaration shall be made in substantially the form attached to this agreement as part of the Additional Provisions in **Exhibit B**.

The Council has the ability to withhold payment of the grant proceeds unless and until the Declaration has been filed with the county recorder for the county in which the property is located.

2.05 Sustainable Building Guidelines for New Buildings; Alternative Energy Sources. The Grantee acknowledges that this grant is financed using state bond funds and therefore the Grantee's Project may be subject to the requirements of Minn. Stat. § 16B.325 and Minn. Stat. §16B.32. The Departments of Administration and Commerce have developed sustainable building design guidelines for all new state buildings. The objective of the guidelines concerns the energy efficiency of new state buildings. Minn. Stat. §16B.325 specifies that these guidelines *"...are mandatory for all new buildings receiving funding from the bond proceeds fund after January 1, 2004."* All new state buildings funded on January 1, 2004 and later must follow the sustainable building guidelines and exceed the Energy Code by thirty percent. For projects that are to construct a new building, or to renovate at least half of an existing building, Minn. Stat. § 16B.32 requires the commissioner of administration to include designs that utilize active and passive solar energy systems, earth sheltered construction, and other alternative energy sources where feasible.

2.06 Design Review by Legislative Committee Chairs; Pre-design Review by the Department of Administration. The Grantee acknowledges that this grant is financed using state bond funds and therefore the Grantee's Project may be subject to the requirements of Minn. Stat. § 16B.335. Minn. Stat. § 16B.335, subd. 1(a), restricts a recipient of a capital appropriation from preparing *"...final plans and specifications for any construction, major remodeling, or land acquisition in anticipation of which the appropriation was made until the agency that will use the project has presented the program plan and cost estimates for all elements necessary to complete the project to the chair of the senate finance committee and the chair of the house ways and means committee and the chairs have made their*

recommendations, and the chair of the house capital investment committee is notified." Paragraph (b) of this same statute exempts certain types of projects from the legislative design review requirements. These include: demolition or decommissioning of state assets, hazardous material projects, utility infrastructure projects, environmental testing, parking lots, exterior lighting, fencing, highway rest areas, truck stations, storage facilities not consisting primarily of offices or heated work areas, roads, bridges, trails, pathways, campgrounds, athletic fields, dams, floodwater retention systems, water access sites, harbors, sewer separation projects, water and wastewater facilities, port development projects for which the commissioner of transportation has entered into an assistance agreement under section 457A.04, ice centers, a local government project with a construction cost of less than \$1,500,000, or any other capital project with a construction cost of less than \$750,000.

Minn. Stat. § 16B.335, subd. 3, specifies a pre-design requirement. Most agencies and grantees are required to prepare pre-design documents for review by the Department of Administration before proceeding with design work. The *Predesign Manual for Capital Budget Projects (Fourth Edition)* is posted on Administration's Construction Services website, and can be accessed through the following link: www.admin.state.mn.us/recs/cs/predesign/4thedition/PDM4thE.pdf.

Grantee acknowledges that it has reviewed this statute in its entirety and will, if applicable, comply with the requirements of this section.

2.07 One Percent for Art. Minn. Stat. § 16B.35 allows an appropriation "for the construction or alteration of any state building" to include up to one percent for the acquisition of works of art for the public spaces of the building or its grounds. This "1% For Art" provision defines a state building as one where the construction or alternation is paid for, wholly or in part, by the state. The "1% For Art" provision, does not apply to projects where the state funding is less than \$500,000; and projects where the commissioner of administration has determined that the provision is inappropriate.

2.08 Prevailing Wages. The Grantee agrees to comply with all of the applicable provisions contained in Chapter 177 of the Minnesota Statutes, and specifically those provisions contained in Minn. Stat. §§ 177.41 through 177.435 that exists as of the date of this Agreement and as such may subsequently be amended, modified or replaced from time to time with respect to the Project and the operation of the state program. By agreeing to this provision, the Grantee is not acknowledging or agreeing that the cited provisions apply to the Project or the operation of the state program.

III. MAXIMUM GRANT AMOUNT AND DISTRIBUTION

3.01 Maximum Grant Amount. The Council agrees to make available to the Grantee a grant of up to \$400,000 ("Maximum Grant Amount") for the Grant Project. In no event will the Council's obligation under this agreement exceed the Maximum Grant Amount. The Council shall bear no responsibility for cost overruns that may be incurred by the Grantee in performance of the Grant Project

3.02 Distribution of Grant Funds. Grant funds will be distributed by the Council as follows:

- a. All payments to the Grantee shall be made on a reimbursement basis only.
- b. To obtain reimbursement under this agreement, the Grantee must submit a Grantee Invoice as identified on Exhibit C. Grantee Invoices may be submitted not more frequently than once per calendar month, but must be submitted at least semi-annually by December 1 and June 1 of each calendar year during the term of this agreement.
- c. Each Grantee Invoice must include a description of the activities undertaken in connection with the Grant Project and an itemization of expenditures for which reimbursement is requested, along with supporting documentation. The Grantee must also submit any

additional information or documentation requested by the Council to justify and support the Grantee's reimbursement request.

- d. Upon review and approval of the Grantee's Invoice the Council will distribute to the Grantee the approved reimbursement request amount. The Council may deny part or all of any reimbursement request if it believes that it is not warranted or justified.
- e. No reimbursement payment will be made which would cause distribution of grant funds to exceed, cumulatively through such payment, the Maximum Grant Amount.
- f. Distribution of any funds or approval of any report is not to be construed as a Council waiver of any Grantee noncompliance with this agreement.
- g. For each reimbursement request Grantee must acknowledge that it is aware of the state laws and statutes regarding state bond expenditures. The reimbursement request must specifically state:

(Insert name of agency receiving grant funds here) _____ hereby acknowledges that it is aware of the state laws and statutes regarding these bond expenditures. We, furthermore, acknowledge that we have examined the support documentation of the reimbursement requests, and have determined that the reimbursements requested fairly and accurately represent the true costs of the funds being appropriated.

3.03 Repayment of Unauthorized Use of Grant Funds. Upon a finding by the Council that the Grantee has made an unauthorized or undocumented use of grant funds, and upon a demand for repayment issued by the Council, the Grantee agrees to promptly repay such amounts to the Council.

3.04 Reversion of Unexpended Grant Funds. All funds granted by the Council under this agreement that have not been expended for Grant Project activities taking place during the Project Activity Period shall revert to and become part of the Council's transit capital fund and may be reallocated or expended by the Council for other transit capital projects.

IV. ACCOUNTING AND RECORDKEEPING REQUIREMENTS

4.01 Documentation of Grant Project Costs. All costs charged to the Grant Project must be supported by proper documentation, including properly executed invoices, contracts, receipts for expenses, or vouchers, evidencing in detail the nature and propriety of the charges.

4.02 Establishment and Maintenance of Grant Project Information. The Grantee agrees to establish and maintain accurate, detailed, and complete separate books, accounts, financial records, documentation, and other evidence relating to: i) Grantee's performance under this agreement, and ii) the receipt and expenditure of all grant funds under this agreement. These documents shall include the property records required by article VIII of this agreement. The Grantee shall establish and maintain all such information in accordance with generally accepted accounting principles and practices and shall retain intact all Grant Project information until the latest of:

- a. complete performance of this agreement; or
- b. six (6) years following the term of this agreement; or
- c. if any litigation, claim, or audit is commenced during either such period, when all such litigation, claims or audits have been resolved.

If the Grantee engages any contractors to perform any part of the Grant Project activities, the Grantee agrees that the contract for such services shall include provisions requiring the contractor to establish and maintain Grant Project information in accordance with the provisions of this paragraph and to allow audit of such information in accordance with paragraph 4.03.

4.03 Audit. The accounts and records of the Grantee relating to the Grant Project shall be audited in the same manner as all other accounts and records of the Grantee are audited. During the time of maintenance of information under paragraph 4.02, authorized representatives of the Council, and the Legislative Auditor and/or State Auditor in accordance with Minnesota Statutes, section 16C.05, subdivision 5, will have access to all such books, records, documents, accounting practices and procedures, and other information for the purpose of inspection, audit, and copying during normal business hours. The Grantee will provide proper facilities for such access and inspection.

V. MONITORING AND CONSULTATION REQUIREMENTS; FINAL REPORT

5.01 Monitoring Activities. To assist the Council in monitoring compliance with this agreement, the Grantee agrees to attend Grantee meetings as requested by the Council and to permit site visits by Council staff, during business hours, upon reasonable notice. The Grantee agrees to submit to the Council a copy of any promotional information regarding the Grant Project disseminated by the Grantee during the term of this agreement.

5.02 Changed Conditions. The Grantee agrees to notify the Council immediately of any change in conditions, law, ordinance, or regulation, or any other event that may affect the Grantee's ability to perform the Grant Project in accordance with the terms of this agreement.

5.03 Consultation. The Grantee agrees specifically to review and solicit recommendations and advice from the Council's staff at the earliest possible time if and when the Grantee expects that the following will or may occur:

- a. the costs for any portion of the Grant Project will be higher than the Grantee's projected costs for that portion of the Grant Project, or
- b. the total cost of the Grant Project will exceed the Maximum Grant Amount.

If the Grantee, for any reason, determines that the Grant Project or any portion of it should not be undertaken, or that there should be a change in the scope or costs of the Grant Project or any portion of it, the Grantee shall submit to the Grant Manager a statement describing the situation and giving the reasons for the Grantee's determination. The Grantee may, simultaneously with the submission of the statement or within a reasonable time thereafter, recommend for Council approval alternative projects, activities, uses, expenditures, or allocations of grant funds.

VI. GRANT PROJECT ACTIVITY PERIOD; TERM; TERMINATION

6.01 Grant Project Activity Period. The Grantee agrees to complete all Grant Project activities during the period from April 20, 2010 to December 31, 2011 ("Project Activity Period"). Grant funds may not be used by Grantee to reimburse costs for any Grant Project activities taking place before the beginning or after the end of the Project Activity Period.

6.02 Term. The term of this agreement shall extend from the effective date of this agreement to a date sixty (60) calendar days following the end of the Project Activity Period, to permit closeout of this agreement.

6.03 Termination by Council for Convenience. The Council may terminate this agreement, for just cause, as determined by the Council in its commercially reasonable judgment, by providing Grantee written notice of such termination at least thirty (30) calendar days prior to the effective date of such termination. Upon such termination Grantee shall be entitled to compensation for Grant Project activities in accordance with this agreement which were incurred prior to the effective date of the termination, but not exceeding the Maximum Grant Amount.

6.04 Termination by Council for Noncompliance. If the Council finds that there has been a failure to comply with the provisions of this agreement, the Council may terminate the agreement at any time following seven (7) calendar days written notice to the Grantee and upon failure of the Grantee to cure the noncompliance within the seven-day period. Noncompliance includes failure to make reasonable progress toward completion of the Grant Project. At the Council's option, the Council may cease payment of invoices during any period in which the Grantee is not in compliance with this agreement. If the Council finds that the Grantee's noncompliance is willful and unreasonable, the Council may terminate or rescind this agreement and require the Grantee to repay the grant funds in full or in a portion determined by the Council. Nothing herein shall be construed so as to limit the Council's legal remedies to recover grant funds.

6.05 Effect of Grant Project Closeout or Termination. The Grantee agrees that Grant Project closeout or termination of this agreement does not invalidate continuing obligations imposed on the Grantee by this agreement. Grant Project closeout or termination of this agreement does not alter the Council's authority to disallow costs and recover funds on the basis of a later audit or other review, and does not alter the Grantee's obligation to return any funds due to the Council as a result of later refunds, corrections, or other transactions.

VII. CONTACT PERSONS; GRANT MANAGER

7.01 Contact Persons. The authorized contact persons for receipt of notices, reports, invoices, and approvals under this agreement are the following:

COUNCIL:

Cole Hiniker
Metropolitan Council
390 North Robert Street
St. Paul, MN 55101
651-602-1748

GRANTEE:

Michael Rogers
Ramsey County Regional Railroad
Authority
50 West Kellogg Blvd.
Suite 6560 RCGC-West
St. Paul, MN 55102
651-266-2773

or such other person as may be designated in writing for itself by either party.

7.02 Council's Grant Manager. The Council's Grant Manager for purposes of administration of this agreement is the contact person listed for the Council in paragraph 7.01, or such other person as may be designated in writing by the Council's Regional Administrator. However, nothing in this agreement will be deemed to authorize the Grant Manager to execute amendments to this agreement on behalf of the Council.

VIII. GENERAL CONDITIONS

8.01 Amendments. The terms of this agreement may be changed only by mutual agreement of the parties. Such changes shall be effective only upon the execution of written amendments signed by authorized officers of the parties to this agreement.

8.02 Assignment Prohibited. Except as provided in paragraph 1.02, the Grantee shall not assign, contract out, sublet, subgrant, or transfer any Grant Project activities without receiving the express written consent of the Council. The Council may condition such consent on compliance by the Grantee with terms and conditions specified by the Council.

8.03 Indemnification. The Grantee assumes liability for and agrees to defend, indemnify and hold harmless the Council, its members, officers, employees and agents, from and against all losses, damages, expenses, liability, claims, suits, or demands including, without limitation, attorney's fees, arising out of, resulting from, or relating to the performance of the Grant Project by Grantee or Grantee's employees, agents, or subcontractors.

8.04 Grant Project Data. The Grantee agrees that the results of the Grant Project, the reports submitted, and any new information or technology that is developed with the assistance of this grant is in the public domain and may not be copyrighted or patented by Grantee. The Grantee shall comply with the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13, in administering data under this agreement.

8.05 Nondiscrimination. The parties agree to comply with all applicable laws relating to nondiscrimination and affirmative action. In particular, the Grantee agrees not to discriminate against any employee, applicant for employment, or participant in this Grant Project because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability, sexual orientation, or age; and further agrees to take action to ensure that applicants and employees are treated equally with respect to all aspects of employment, including selection for training, rates of pay, and other forms of compensation. In undertaking the Grant Project activities, the Grantee agrees to comply with Minnesota Statutes, section 363.03, subdivision 4, regarding non-discrimination in the provision of public services.

8.06 Acknowledgment. The Grantee shall appropriately acknowledge the grant assistance made by the Council under this agreement in any promotional materials, reports, and publications relating to the Grant Project.

8.07 Compliance with Law; Obtaining Permits, Licenses, and Authorizations. The Grantee agrees to conduct the Grant Project in compliance with all applicable provisions of federal, state, and local laws, ordinances, or regulations. The Grantee is responsible for obtaining and complying with all federal, state, or local permits, licenses, and authorizations necessary for performing the Grant Project.

8.08 Workers Compensation; Tax Withholding. The Grantee represents that it is compliance with the workers compensation coverage requirements of Minnesota Statutes, section 176.181, subdivision 2, and that it, and any of its contractors or material suppliers, if any, under this contract, are in compliance with the tax withholding on wages requirements of Minnesota Statutes, section 290.92.

8.09 Construction. This agreement is intended to assist in implementing the Council's Transit CIP and *Transportation Policy Plan/Development Guide Chapter* and shall be interpreted consistently with those documents.

8.10 Jurisdiction, Venue, and Applicable Law. Venue for all legal proceedings arising out of this agreement, or breach of this agreement, shall be in the state or federal court with competent jurisdiction in Ramsey County, Minnesota. All matters relating to the performance of this agreement shall be controlled by and determined in accordance with the laws of the State of Minnesota.

The remainder of this page has been left intentionally blank

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized officers on the dates set forth below. This agreement is effective upon final execution by both parties.

**RAMSEY COUNTY REGIONAL RAILROAD
AUTHORITY**

By: _____
Its: _____

Date _____

METROPOLITAN COUNCIL

Approved as to form:

Office of General Counsel

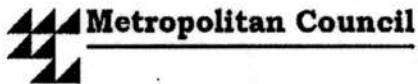
By _____
Regional Administrator

Date _____

LIST OF EXHIBITS

Exhibit	Description
A	Grant Project and Approved Budget
B	Additional State Provisions
C	Invoice

EXHIBIT A
GRANT PROJECT and APPROVED BUDGET



Project Details	
Project Title	East Metro Rail Capacity Analysis
Grantee/Subrecipient	Ramsey County Regional Railroad Authority
Grantee/Subrecipient Address	50 West Kellogg Blvd. Suite 6560 RCGC-West Saint Paul, MN 55102
Grantee/Subrecipient Project Manager	Michael Rogers
Project Manager Phone	651-266-2773
Project Start Date	4/20/2010
Project End Date	12/31/2011
Total Grant Request	\$ 400,000.00

Work Scope: *Description of the project including any anomalies. Please attach additional information when available (such as site plans, schematics, maps, etc.)*

See attached document.

Grant Budget			
Item Description or Purpose: <i>Please provide copies of written cost estimates and other budget documentation when possible</i>	Quantity	Unit Cost	Line Total
Project Management/Stakeholder Outreach	1	\$ 295,000.00	\$ 295,000.00
Alternatives Development	1	162,000.00	162,000.00
Alternatives Analysis	1	335,000.00	335,000.00
Alternatives Selection/Engineering	1	1,208,000.00	1,208,000.00
Grand Total		\$	2,000,000.00

EAST METRO RAIL CAPACITY ANALYSIS

PROJECT DESCRIPTION

Ramsey County Regional Railroad Authority (RCRRA), in coordination with the Red Rock Corridor Commission, is carrying out an East Metro Rail Capacity and Engineering Improvements Analysis (The Project) to identify the impacts and recommend solutions to freight and passenger rail constraints for purposes of the development of a regional multimodal transit hub at the Union Depot in downtown Saint Paul, Minnesota.

This Project is expected to:

- (1) Determine the long term capacity improvements required for expanded future freight and additional conventional, higher speed and commuter rail requirements
- (2) In consultation with the railroads, rank the long term capital improvements based on priority and cost
- (3) Provide engineered drawings and cost-estimates at a 30% level

Outcomes/Public Benefit:

The analysis and proposed engineering improvements will lay the framework for agreements with the railroads for long-term trackage rights or easements within the public interest to allow operations of Red Rock commuter and other passenger trains.

While the Project identifies a greater study area, the focus will be on the Hoffman Ave. Junction. Located within a half-mile of the Depot, five percent (5%) of all U.S. Freight Rail traffic moves through Hoffman Ave. Junction. Burlington Northern Santa Fe Railway (BNSF), Canadian Pacific Railway (CP) and Union Pacific Railroad (UP), all own and operate on track segments in the vicinity of the Depot under joint trackage agreements. Regional short line carriers, including the Twin Cities and Western Railroad operate on trackage rights in this area.

RCRRA and stakeholder railroads recognize current and future rail capacity constraints at Hoffman Ave. Junction will affect long term plans for high-speed, inter-city and Red Rock commuter rail connections to Union Depot.

FUNDING

This grant will provide the 80/20 local match to federal 5339 funds.

KEY MILESTONES

A Request for Proposals (RFP) was issued for this study on December 15, 2009. RCRRA secured a consultant under contract on April 20, 2010.

STUDY AREA

RCRRA has identified the railroad subdivisions that affect rail operations in the eastern metro of the Twin Cities, including Ramsey, Dakota, and Washington Counties. The project will examine railroad capacity within the following subdivisions:

Burlington Northern Santa Fe Railway (BNSF)
--

St. Paul Subdivision, St. Croix to Mississippi Street

Midway Subdivision, Seventh Street to Jackson Street
--

Canadian Pacific Railway (CP)

River Subdivision, East Hastings to St. Paul Yard

Merriam Park Subdivision, St. Paul Yard to Chestnut Street
--

Union Pacific Railroad Company (UP)
--

Altoona Subdivision, Mile 0.0 to Westminster Street

Albert Lea Subdivision, Hoffman Avenue to South Saint Paul
--

Mankato Subdivision, Hoffman Avenue to Chestnut Street
--

State Street Industrial Lead, Robert Street Interlocking and the Robert Street Drawbridge

Key Assumptions:

- The Federal Railroad Administration has already designated the CP River Subdivision and a portion of the BNSF St. Paul Subdivision as the High Speed Rail Corridor between La Crosse, Wisconsin and St. Paul, Minnesota
- The proposed Red Rock Corridor Commuter Rail Line will use the CP River Subdivision between St. Paul, Minnesota and Hastings, Minnesota
- The potential alternate high speed rail corridor between Camp Douglas, Wisconsin and St. Paul, Minnesota via Eau Claire, Wisconsin may use the UP Altoona Subdivision

EXHIBIT B
ADDITIONAL STATE PROVISIONS

16A.695 PROPERTY PURCHASED WITH STATE BOND PROCEEDS.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "State bond financed property" means property acquired or bettered in whole or in part with the proceeds of state general obligation bonds authorized to be issued under article XI, section 5, clause (a), of the Minnesota Constitution.

(c) "Public officer or agency" means a state officer or agency, the University of Minnesota, the Minnesota Historical Society, and any county, home rule charter or statutory city, school district, special purpose district, or other public entity, or any officer or employee thereof.

(d) "Fair market value" means, with respect to the sale of state bond financed property, the price that would be paid by a willing and qualified buyer to a willing and qualified seller as determined by an appraisal of the property, or the price bid by a purchaser under a public bid procedure after reasonable public notice.

(e) "Outstanding state bonds" means the dollar amount certified by the commissioner, upon the request of a public officer or agency, to be the principal amount of state bonds, including any refunding bonds, issued with respect to the state bond financed property, less the principal amount of state bonds paid or defeased before the date of the request.

Subd. 2. **Leases and management contracts.** (a) A public officer or agency that is authorized by law to lease or enter into a management contract with respect to state bond financed property shall comply with this subdivision. A reference to a lease or management contract in this subdivision includes any amendments, modifications, or alterations to the referenced lease or management contract and refers to the lease wherein the public officer or agency is the lessor of the state bond financed property and the other contracting party is the lessee.

(b) The lease or management contract may be entered into for the express purpose of carrying out a governmental program established or authorized by law and established by official action of the contracting public officer or agency, in accordance with orders of the commissioner intended to ensure the legality and tax-exempt status of bonds issued to finance the property, and with the approval of the commissioner. A lease or management contract must be for a term substantially less than the useful life of the property, but may allow renewal beyond that term upon a determination by the lessor that the lessee has demonstrated that the use continues to carry out the governmental program. If the lessor and lessee do not renew the lease or management contract and if the lessee has contributed to the land and the capital improvements on the state bond financed property, the lessor may agree to reimburse the lessee for its investment in the land and capital improvements. The reimbursement may be paid, at the option of the lessor and lessee, at the time of nonrenewal without a requirement for a prior escrow of funds or at a later date and on additional terms agreed to by the lessor and the lessee. A lease or management contract must be terminable by the contracting public officer or agency if the other contracting party defaults under the contract or if the governmental program is terminated or changed, and must provide for program oversight by the contracting public officer or agency. The expiration or termination of a lease or management agreement does not require that the state bond proceeds be repaid or that the property be sold, so long as the property continues to be operated by, or on behalf of, the public officer or agency for the intended governmental program. Money received by the public officer or agency under the lease or management contract that is not needed to pay and not authorized to be used to pay operating costs of the property, or to pay the principal, interest, redemption premiums, and other expenses when due on debt related to the property other than state bonds, must be:

(1) paid to the commissioner in the same proportion as the state bond financing is to the total public debt financing for the property, excluding debt issued by a unit of government for which it has no financial liability;

(2) deposited in the state bond fund; and

(3) used to pay or redeem or defease bonds issued to finance the property in accordance with the commissioner's order authorizing their issuance.

The money paid to the commissioner is appropriated for this purpose.

(c) With the approval of the commissioner, a lease or management contract between a city and a nonprofit corporation under section 471.191, subdivision 1, need not require the lessee to pay rentals sufficient to pay the principal, interest, redemption premiums, and other expenses when due with respect to state bonds issued to acquire and better the facilities.

Subd. 3. **Sale of property.** A public officer or agency shall not sell any state bond financed property unless the public officer or agency determines by official action that the property is no longer usable or needed by the public officer or agency to carry out the governmental program for which it was acquired or constructed, the sale is made as authorized by law, the sale is made for fair market value, and the sale is approved by the commissioner. If any state

bonds issued to purchase or better the state bond financed property that is sold remain outstanding on the date of sale, the net proceeds of sale must be applied as follows:

(1) if the state bond financed property was acquired and bettered solely with state bond proceeds, the net proceeds of sale must be paid to the commissioner and deposited in the state treasury; or

(2) if the state bond financed property was acquired or bettered partly with state bond proceeds and partly with other money, the net proceeds of sale must be used: first, to pay to the state the amount of state bond proceeds used to acquire or better the property; second, to pay in full any outstanding public or private debt incurred to acquire or better the property; third, to pay interested public and private entities, other than any public officer or agency or any private lender already paid in full, the amount of money contributed to the acquisition or betterment of the property; and fourth, any excess over the amount needed for those purposes must be divided in proportion to the shares contributed to the acquisition or betterment of the property and paid to the interested public and private entities, other than any private lender already paid in full, and the proceeds are appropriated for this purpose. In calculating the share contributed by each entity, the amount to be attributed to the owner of the property shall be the fair market value of the property that was bettered by state bond proceeds at the time the betterment began.

When all of the net proceeds of sale have been applied as provided in this subdivision, this section no longer applies to the property.

Subd. 3a. Involuntary sale of property. Notwithstanding subdivision 3, this subdivision applies to the sale of state bond financed property by a lender that has provided money to acquire or better the property. Purchase by the lender in a foreclosure sale, acceptance of a deed in lieu of foreclosure, or enforcement of a security interest in personal property, by the lender, is not a sale. Following purchase by the lender, the lender shall not operate the property in a manner inconsistent with the governmental program established as provided in subdivision 2, paragraph (b). The lender shall exercise its best efforts to sell the property to a third party as soon as feasible following acquisition of marketable title to the property by the lender. A sale by the lender must be made as authorized by law and must be made for fair market value.

Subd. 4. Relation to other laws. This section applies to all state bond financed property unless otherwise provided by law.

Subd. 5. Program funding. Recipients of grants from money appropriated from the bond proceeds fund must demonstrate to the commissioner of the agency making the grant that the recipient has the ability and a plan to fund the program intended for the facility. A private nonprofit organization that leases or manages a facility acquired or bettered with grant money appropriated from the bond proceeds fund must demonstrate to the commissioner of the agency making the grant that the organization has the ability and a plan to fund the program intended for the facility.

Subd. 6. Match requirements. Recipients of grants from money appropriated from the bond proceeds fund may be required to demonstrate a commitment of money from nonstate sources. This matching money may be pledged payments that have been deposited into a segregated account or multiyear pledges that are converted into cash or cash equivalent through a loan or irrevocable letter of credit from a financial institution. The loan or irrevocable letter of credit may be secured by a lien on the state bond financed property.

Subd. 7. Ground lease for state bond financed property. A public officer or agency, as lessee, may lease real property and improvements that are to be acquired or improved with state bond proceeds. The lease must be for a term equal to or longer than 125 percent of the useful life of the property. The expiration of the lease upon the end of its term does not require that the state be repaid or that the property be sold and upon the expiration the real property and improvements are no longer state bond financed property.

Subd. 8. General applicability. (a) This section establishes requirements for the receipt and use of general obligation grants and the ownership and operation of state bond-financed property. General obligation grants may only be issued and used to finance the acquisition and betterment of public lands and buildings and other public improvements of a capital nature that are used to operate a governmental program, and for predesign and design activities for specifically identified projects that involve the operation of a governmental program or activity. A general obligation grant may not be used for general operating expenses, staffing, or general master planning. A public officer or agency that is the recipient of a general obligation grant must comply with this section in its use of the general obligation grant and operation, management, lease, and sale of state bond-financed property. A public officer or agency that uses the proceeds of a general obligation grant for any unauthorized purpose or in violation of this section must immediately repay the outstanding balance of the grant to the commissioner, and a failure to comply authorizes the commissioner to recover the outstanding balance as a set-off against any state aid provided to the public officer or agency.

(b) This section does not create any new authority regarding the ownership, construction, rehabilitation, use, operation, lease management, or sale of state bond-financed property, or the operation of the governmental program that will be operated on the property. Any authority that is needed to enter into a management contract or lease of property, to sell property, or to operate a governmental program or carry out any activity contained in the law that appropriates money for a general obligation grant must be provided by as contained in some other law.

Subd. 9. **Grant agreement.** All general obligation grants must be evidenced by a grant agreement that specifies:

- (1) how the general obligation grant will be used;
- (2) the governmental program that will be operated on the state bond-financed property; and
- (3) that the state bond-financed property must be operated in compliance with this section, all state and federal laws, and in a manner that will not cause the interest on the state general obligation bonds to be or become subject to federal income taxation for any reason. A grant agreement must comply with this section, the Minnesota Constitution, and all commissioners orders, and also contain other provisions the commissioner of the agency making the grant deems appropriate. The commissioner shall draft and make available forms for grant agreements that satisfy the requirements of this subdivision.

History: 1994 c 643 s 36; 1Sp1995 c 2 art 1 s 19-22; 1996 c 463 s 32; 2004 c 278 s 1; 2007 c 148 art 2 s 14-19

Third Order Amending Order of Commissioner of Finance

Relating to Use and Sale of State Bond Financed Property

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IT IS HEREBY ORDERED by the Commissioner of Minnesota Management and Budget of the State of Minnesota (f/k/a Commissioner of Finance of the State of Minnesota) that the Commissioner's Order entitled "Order of Commissioner of Finance Relating to Use and Sale of State Bond Financed Property" dated July 14, 1994, as subsequently amended by the Commissioner's Orders entitled "Order Amending Order of Commissioner of Finance Relating to Use and Sale of State Bond Financed Property" dated July 20, 1995 and "Second Order Amending Order of Commissioner of Finance Relating to Use and Sale of State Bond Financed Property" dated March 9, 2010, be further amended to read as follows:

Section 1. **Authorization and Purpose.**

1.01. **Authorization.** This Order is adopted pursuant to the Act for the purpose of establishing requirements to be complied with by Public Officers and Agencies regarding GO Grants and relating to the use or sale of State Bond Financed Property.

1.02. **Purpose.** The purpose of this Order is to ensure that the proceeds of State General Obligation Bonds are used solely for the purposes delineated in the corresponding Bonding Legislation, and that the interest to be paid on such bonds is and will continue to be (whenever possible) exempt from federal income taxation. Essentially, State General Obligation Bonds can be issued only to finance the acquisition and betterment of publicly owned land, buildings or betterments to be used to conduct governmental programs of the State and its instrumentalities and political subdivisions. Where State General Obligation Bonds are to be issued to finance property that is to be leased, managed, operated or otherwise used by a Non-Public Party, or where State Bond Financed Property is to be sold to a Non-Public Party, questions may arise as to the legality and tax-exempt status of the State General Obligation Bonds. Accordingly, the requirements set forth herein are to be complied with by a Public Officer or Agency as to

any GO Grant it receives, its operation of any State Bond Financed Property, its entering into lease, management or other similar contracts relating to the use of State Bond Financed Property, and in its sale of State Bond Financed Property in order to ensure the legality and tax-exempt status of the State General Obligation Bonds.

Section 2. **Definitions.** For purposes of this Order the terms defined in this Section shall have the meanings given to them in this Section.

2.01. "**Act**" means Minnesota Statutes, Section 16A.695, as such may be amended, modified or otherwise restated.

2.02. "**Bonding Legislation**" means the legislation that authorizes the issuance of the State General Obligation Bonds and the making of the GO Grant, or creates a program under which a GO Grant is made.

2.03. "**Code**" means the Internal Revenue Code of 1986, as amended, and all treasury regulations, revenue procedures and revenue rulings issued pursuant thereto.

2.04. "**Commissioner**" means the Commissioner of Minnesota Management and Budget of the State of Minnesota, or his or her designated representative.

2.05. "**Counterparty**" means any entity with which a Public Officer or Agency contracts under a Use Contract.

2.06. "**Fair Market Value**" means the price that would be paid by a willing and qualified buyer to a willing and qualified seller as determined by an appraisal of the property that assumes that all liens and encumbrances on the property being sold that negatively affect the value of such property will be paid and released, or the bid price by a purchaser under a public bid procedure after reasonable public notice that assumes that all liens and encumbrances on the property being sold that negatively affect the value of such property will be paid and released.

2.07. "**GO Grant**" means a grant or loan funded with the proceeds of State General Obligation Bonds.

2.08. "**Non-Public Party**" means a private person or entity.

2.09. "**Order**" means this Third Order Amending Order of Commissioner of Finance Relating to Use and Sale of State Bond Financed Property.

2.10. "**Public Officer or Agency**" means an entity specifically identified in the Bonding Legislation or selected through a program administered by the State as the recipient of the GO Grant, which must be a state officer or agency, the University of Minnesota, the Minnesota Historical Society, and any county, home rule charter or statutory city, school district, special purpose district, or any other public entity, or any officer or employee thereof. It does not and may not include the United States or any agency or instrumentality of the United States.

2.11. **"State"** means the State of Minnesota.

2.12. **"State Bond Financed Property"** means ownership of an interest, as described in Section 3.03, in property acquired or bettered in whole or in part with the proceeds of State General Obligation Bonds.

2.13. **"State General Obligation Bonds"** mean general obligation bonds of the State that are authorized by the legislature to be issued under Article XI, Section 5, clause (a) of the Minnesota Constitution, or any bonds issued to refund those bonds, the proceeds of which are used to fund a GO Grant.

2.14. **"Use Contract"** - means a lease, management contract or other similar contract relating to State Bond Financed Property, between a Public Officer or Agency that owns or has jurisdiction over the property and another entity as a Counterparty under such lease, management contract or other similar contract.

Section 3. **Application.** This Order shall apply only as provided in this Section, and the provisions of Sections 4 through 7 are subject to the provisions of this Section.

3.01. **In General.** This Order applies to transactions involving State Bond Financed Property, regardless of when acquired or bettered, unless otherwise provided by law, or unless such application would impair a contract entered into pursuant to law, which contract was in effect on May 17, 1994.

3.02. **Operation of the State Bond Financed Property.** State Bond Financed Property must be operated by the Public Officer or Agency for the governmental program or purpose for which the GO Grant is made. If a Public Officer or Agency has specific statutory authority, then it may contract with another entity to have such entity operate the required governmental program in the State Bond Financed Property.

3.03. **Ownership Interest.** A Public Officer or Agency that is the recipient of a GO Grant must have a qualifying ownership interest in the State Bond Financed Property, which may be in the form of fee ownership, or a lessee's or grantee's interest in a qualifying long term lease or easement. A qualifying long term lease or easement must (i) create the functional equivalency of fee ownership for the length of its term, and (ii) be for a term that is equal to or greater than 125% of the useful life of the property that is the subject thereof, or such other period of time specifically authorized by a Minnesota statute, rule or session law. The Public Officer or Agency must be the lessee or grantee under the qualifying long-term lease or easement.

3.04. **Term.** State Bond Financed Property shall be subject to the Act and this Order for a time period equal to 125% of the useful life of the State Bond Financed Property or until such property is sold in accordance with Section 5, and thereafter such property shall no longer be State Bond Financed Property.

Section 4. **Requirements for Use Contracts.**

4.01. **Statutory Authorization.**

(a) A Use Contract can be entered into only where authorized by state law other than the Act; the Act itself does not authorize, but only regulates, such contracts.

(b) A Use Contract must comply with the substantive and procedural provisions of the state law authorizing it, the Act, and the requirements of this Order.

4.02. **Requirements for Use Contracts.** Use Contracts must fully comply with all of the following requirements.

(a) A Use Contract must be entered into for the express purpose of carrying out a governmental program established by law or authorized by law and established by official action of the contracting Public Officer or Agency. The governmental program, its purpose, and the statutory authority for the governmental program must be specifically set forth in the Use Contract.

(b) The term of a Use Contract, including all renewal terms that are solely at the option of the Counterparty, shall be substantially less than the useful life of the property to which it relates. Ordinarily a Use Contract term not exceeding 50% of the useful life of the property to which it relates will be considered to be for a period substantially less than the useful life of such property. A Use Contract may allow renewal beyond the end of the original (or any previous renewal) term during the last six (6) months of an existing term, upon determination by the Public Officer or Agency by official action that such renewal is necessary or desirable to continue to carry out the governmental program to be operated under the Use Contract and that the Public Officer or Agency wants the Counterparty to continue in the Use Contract. Under extraordinary circumstances the Commissioner may, at his or her sole option and discretion, authorize a renewal prior to the last six (6) months of an existing term upon compliance with all other requirements.

(c) A Use Contract must provide for program oversight by the Public Officer or Agency. This requirement will be deemed to have been satisfied if the Use Contract requires the Counterparty to provide to the Public Officer or Agency an initial program implementation plan and, at least annually, a program evaluation report and a program budget showing program revenues and expenses.

(d) A Use Contract must allow for termination by the Public Officer or Agency in the event of default by the Counterparty or in the event the governmental program is terminated or changed, and may provide for notice of default for a specified period which is reasonable under the circumstances prior to termination.

(e) A Use Contract must require the Counterparty to pay all costs of operation and maintenance of the property to which it relates, unless the Public Officer or Agency is authorized and agrees to pay such costs pursuant to state law. A Use Contract need not require the Counterparty to pay to the Public Officer or Agency any compensation for use

of the property to which it relates unless required by a state law other than the Act or by the Commissioner.

(f) A percentage of all moneys received by a Public Officer or Agency pursuant to a Use Contract in excess of the amount needed and authorized to be used to pay operating costs of the property to which it relates, or to pay the principal, interest, redemption premiums, and other expenses when due on debt related to such property other than State General Obligation Bonds, must be paid to the Commissioner by the Public Officer or Agency. Such percentage shall be determined by the Commissioner and, absent circumstances which would indicate a different method, will be determined by dividing the total principal amount of all GO Grants issued with respect to such property by the total principal amount of all public debt financing incurred with respect to such property by the Public Officer or Agency (other than debt issued by the Public Officer or Agency for which it has no financial liability), without regard to the amount of GO Grants outstanding at any time.

4.03. Approval by Commissioner.

(a) No Public Officer or Agency shall enter into a Use Contract, or the renewal or amendment of an existing Use Contract, without the prior written approval of the Commissioner.

(b) Proposed Use Contracts, renewals and amendments of a Use Contract, and the related information described below, should be submitted to the Commissioner not less than 60 days before their proposed date of execution. Such related information should include, if not evident from the Use Contract: (i) the state law authorizing the Public Officer or Agency to enter into the Use Contract, (ii) the name, address, nature, financial condition, and reason for selection of the Counterparty, (iii) the initial or current program implementation plan and budget (except in cases of leases of excess property), and (iv) other information deemed relevant by the Public Officer or Agency. The Commissioner will endeavor to provide approvals or comments requiring any changes needed within a reasonable period after receipt of the proposed Use Contract and the related information, but failure to approve or provide comments on a proposed Use Contract shall not constitute approval.

4.04. Tax Considerations. The Public Officer or Agency shall, upon direction by the Commissioner, take, and/or require the Counterparty to take, such actions and furnish such documents to the Commissioner as the Commissioner determines to be necessary to ensure that the interest to be paid on the State General Obligation Bonds issued to finance the property to which the Use Contract relates is exempt from federal income taxation. Such actions may include either: (i) compliance with procedures intended to classify the State General Obligation Bonds as a "qualified bond" within the meaning of Section 141(e) of the Code; or (ii) changing the nature and/or terms of the Use Contract so that it complies with the Code.

Section 5. Guidelines and Procedures for Sale of Bond Financed Property.

5.01. Authorization of Sales.

(a) State Bond Financed Property can be sold or transferred only where authorized by state law; the Act itself does not authorize, but only regulates, such transactions.

(b) A sale or transfer of State Bond Financed Property must comply with substantive and procedural provisions of the state law authorizing it, the Act, and the requirements of this Order.

5.02. Requirements for Sales. State Bond Financed Property may only be sold or transferred in accordance with the following provisions.

(a) Except as provided in subparagraphs (b) and (d) of this Section 5.02, no Public Officer or Agency shall sell or transfer any interest in State Bond Financed Property unless the Public Officer or Agency first determines by official action that the property is no longer useable or needed to carry out the governmental program for which it was acquired, constructed, or bettered, and the sale is made for Fair Market Value and approved by the Commissioner.

(b) The acquisition of State Bond Financed Property by a lender in satisfaction of a debt by foreclosure sale, acceptance of a deed in lieu of foreclosure or by enforcement of a security interest is not a sale; however, a subsequent sale by the lender is subject to the Act and this Order and must be made as authorized by law and for Fair Market Value. While held by the lender the State Bond Financed Property shall not be operated in a manner inconsistent with the governmental program established with respect to the property. The lender shall exercise its best efforts to sell the State Bond Financed Property to a third party as soon as feasible following acquisition of marketable title to such property.

(c) When all of the net proceeds of sale of any State Bond Financed Property have been applied as provided in Section 5.04, then the Act and this Order will no longer apply to such property, and such property will no longer be considered to be State Bond Financed Property.

(d) State Bond Financed Property may be transferred by a Public Officer or Agency to another public entity for a nominal consideration where authorized by state law, if the transferor Public Officer or Agency determines by official action that the State Bond Financed Property to be transferred is no longer useable or needed to carry out the governmental program for which it was acquired or constructed and the transferee public entity determines by official action that the property is needed or useful for a governmental program of the transferee authorized in such state law, it is willing and able to operate such governmental program on or in such property, the official action is filed with the Commissioner, and the transferee public entity acknowledges and agrees that the operation and sale of the property by the transferee is subject to the provisions of the Act and this Order.

(e) The provisions contained in Minnesota Statutes, Section 15.16 shall control over any inconsistent provisions contained in this Section 5.02. So much of the moneys transferred to a state department or agency as a result of the transfer of control of State Bond Financed Property as is necessary to pay and redeem or defease outstanding State General Obligation Bonds issued to finance the acquisition or betterment of the property, shall be transferred to the state bond fund and used for this purpose.

5.03. Approval by Commissioner.

(a) No Public Officer or Agency shall enter into a contract for the sale of State Bond Financed Property or any amendment thereto affecting the sale price without the written approval of the Commissioner.

(b) Proposed sale contracts and amendments, and the related information described below, should be submitted to the Commissioner not less than 60 days before their planned date of execution. Such related information should include, if not evident from the sale contract: (i) a specific reference to the state law that authorizes the sale, (ii) the name, address and nature, if known, of the purchaser, (iii) the proposed method of sale, (iv) the sale price and how it was determined, (v) any appraisal upon which the sale price is based, and (vi) other information deemed relevant by the Public Officer or Agency. The Commissioner will endeavor to provide approvals or comments regarding any needed changes within a reasonable period after receipt of the proposed sale contract and the related information, but failure to approve or provide comments on a proposed sale contract shall not constitute approval.

5.04. Distribution of Sale Proceeds. The proceeds of a sale of State Bond Financed Property shall be distributed as follows if any State General Obligation Bonds remain outstanding or if all of the State General Obligation Bonds have been repaid or redeemed:

(a) If the State Bond Financed Property that is sold was acquired or bettered solely with the proceeds of State General Obligation Bonds, then all of the net proceeds of such sale shall be paid to the Commissioner.

(b) If the State Bond Financed Property that is sold was acquired or bettered partly with proceeds of State General Obligation Bonds and partly with other money, then the net proceeds of such sale shall be used: (i) first, to pay to the Commissioner an amount equal to that portion of any GO Grants relating to the State Bond Financed Property that have not already been repaid to the Commissioner; (ii) second, to pay in full any outstanding public or private debt incurred to acquire or better the State Bond Financed Property that was consented to in writing by the Commissioner; (iii) third, to reimburse public and private entities for their interest in the State Bond Financed Property and all betterments made thereto other than betterments paid for with proceeds of debt repaid under subparagraph (b)(ii) of this Section 5.04, and (iv) the remaining portion of such net proceeds shall be divided among and paid to the interested public and private parties, including the State, which provided money for such acquisition or

betterment (other than any private lender already paid in full), in proportion to the amounts of money provided by them for such purpose.

Section 6. Matching Funds and Full Funding Requirement.

6.01. Full Funding of the Project. Notwithstanding any match requirements imposed by the Bonding Legislation, the Public Officer or Agency must establish to the Commissioner that in addition to the GO Grant it has available, or sufficient funds have been committed, to fully pay for the project as required by Minn. Stat. Sec. 16A.502.

6.02. Use of Loans and Letters of Credit. The proceeds of a loan or a letter of credit may be used to meet any matching or full funding requirement as long as any lien to secure repayment thereof acknowledges the existence of and is subordinate to the Public Officer's or Agency's interest in the State Bond Financed Property and the provisions contained in the grant or loan agreement referred to in Section 7.01.

6.03. Cost Savings. If the full amount of the GO Grant and any matching funds imposed by and contained in the Bonding Legislation are not needed, then, unless language in the Bonding Legislation indicates otherwise, the GO Grant shall be reduced by the amount not needed.

Section 7. Grant and Loan Agreements; Title Records.

7.01. Grant and Loan Agreements. Every state officer or agency to which proceeds of State General Obligation Bonds are appropriated to fund a GO Grant to a Public Officer or Agency shall enter into a grant or loan agreement with respect to such proceeds whereby the Public Officer or Agency acknowledges that the operation, use, sale and transfer of the State Bond Financed Property are subject to the provisions of the Act and this Order, and that such property shall not be used or operated in any manner that would cause the interest on the State General Obligation Bonds to be or become subject to federal income taxation, due to their classification as "private activity bonds" within the meaning of Section 141 of the Code, or as "arbitrage bonds" within the meaning of Section 148 of the Code, or for any other reason.

7.02. Title Records.

(a) Except as provided in subparagraph (b) below, every Public Officer or Agency that expends any portion of a GO Grant to acquire or better real property shall, not later than 30 days after the first such expenditure or as soon thereafter as practical, cause to be recorded in the official real estate title records maintained by the county recorder for the county or counties in which such property is located, a declaration or other appropriate instrument in the form or substantially the same form attached hereto as Exhibit 1.

(b) If all or any portion of a GO Grant will be expended to acquire or better real property within roads, highways or utility or transit corridors, easements or rights of way, and the recording of the declaration otherwise required by subparagraph (a) above against such property would be unduly onerous or impracticable, upon written request by

the Public Officer or Agency, the Commissioner may determine that a declaration need not be recorded against the property within such roads, highways or utility or transit corridors, easements or rights of way and instead shall require that the Public Officer or Agency submit a certification acknowledging that the property is bond financed property within the meaning of Minn. Stat. Sec. 16A.695, is subject to the requirements imposed by such statute, and cannot be sold, encumbered or otherwise disposed of without the approval of the Commissioner of Minnesota Management and Budget. The certification may be included in the grant or loan agreement referenced in Section 7.01 and may contain a description or diagram of the real property rather than a legal description. Such certification need not be recorded. Such property shall still be considered to be State Bond Financed Property and is subject to the Act and all other provisions of this Order.

(c) Upon request and upon full compliance with the provisions of this Order and when appropriate, the Commissioner shall execute and deliver a written release evidencing the release of the subject property from the provisions of the Act and this Order.

Section 8. Amendments; Publication; Effective Date.

8.01. **Amendments.** The Commissioner retains the right to amend this Order at any time as necessary to accomplish the purposes of the Act.

8.02. **Publication.** The Commissioner intends to publish this Order and any amendments thereto in such manner and at such times as are likely to provide access to its contents by all affected persons, but the Order or any amendment shall be effective upon its issuance without regard to its publication.

8.03. **Effective Date.** This Order is effective as of its date of execution set forth below.

Executed August 26, 2010

Tom J. Hanson

Tom J. Hanson, Commissioner
Minnesota Management and Budget

Exhibit I

State of Minnesota
General Obligation Bond Financed Property
DECLARATION

The undersigned has the following interest in the real property located in the County of _____, State of Minnesota that is legally described in **Exhibit A** attached and all facilities situated thereon (collectively, the "Restricted Property"):

(Check the appropriate box.)

☐ a fee simple title,

☐ a lease, or

☐ an easement,

and as owner of such fee title, lease or easement, does hereby declare that such interest in the Restricted Property is made subject to the following restrictions and encumbrances:

- A. The Restricted Property is bond financed property within the meaning of Minn. Stat. Sec. 16A.695, is subject to the encumbrance created and requirements imposed by such statute, and cannot be sold, mortgaged, encumbered or otherwise disposed of without the approval of the Commissioner of Minnesota Management and Budget, which approval must be evidenced by a written statement signed by said commissioner and attached to the deed, mortgage, encumbrance or instrument used to sell or otherwise dispose of the Restricted Property; and
- B. *[Delete this paragraph if there is no grant agreement]* The Restricted Property is subject to all of the terms, conditions, provisions, and limitations contained in that certain _____ *[Insert title of the general obligation grant agreement]* between _____ and _____ dated _____ (the "G.O. Grant Agreement").

The Restricted Property shall remain subject to this State of Minnesota General Obligation Bond Financed Declaration for 125% of the useful life of the Restricted Property or until the Restricted Property is sold with the written approval of the Commissioner of Minnesota Management and Budget, at which time it shall be released therefrom by way of a written release in recordable form signed by both the Commissioner of _____ *[Insert the name of the State Entity that provided the grant, if applicable]* and the Commissioner of Minnesota Management and Budget, and such written release is recorded in the real estate records relating to the Restricted Property. This Declaration may not be terminated, amended, or in any way modified without the specific written consent of the Commissioner of Minnesota Management and Budget.

EXHIBIT C
INVOICE

**Metropolitan Council**390 Robert St North
St. Paul, MN 55101**Grantee/Subrecipient Invoice**Remit to: Address:

Federal Grant #: Met Council Agreement #: Project Period: Is this the FINAL invoice? ☐ Yes ☐ NoInvoice #: Dates Covered by Invoice: Contact: Contact Phone Number: *Attach itemized detail and copies of supporting documentation for all non-recurring expenditures*

Income Sources	Approved Budget Income	Income Recognized this Period*	Income Recognized to Date*	Unrecognized Income
INCOME (Federal grant, Regional bonds, Local match, etc.)				
				\$ -
				\$ -
				\$ -
Total Income	\$ -	\$ -	\$ -	\$ -
Approved Budget Expense Category**	Approved Budget Amount	Expenses Incurred this Period	Expenses Incurred to Date	Balance Remaining
EXPENSE (From Grant Budget)				
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
Total Expenditures	\$ -	\$ -	\$ -	\$ -

Amount of Reimbursement Requested: (total expense less match)

Certification: (Insert name of agency receiving grant funds here) _____ hereby acknowledges that it is aware of the state laws and statutes regarding these bond expenditures. We, furthermore, acknowledge that we have examined the support documentation of the reimbursement requests, and have determined that the reimbursements requested fairly and accurately represent the true costs of the funds being appropriated.

Authorized Signature: _____ Date: _____

* Income recognized is not meant to include the current request. It should reflect income RECEIVED from previous requests.

** Copies of invoices for all non-recurring expenses should be included as attachments to this invoice.