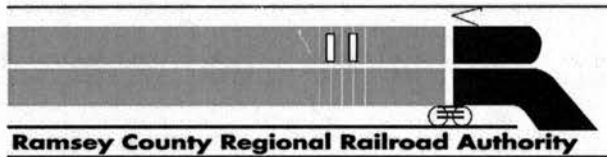




Ramsey County Regional Railroad Authority.
Records.

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Union Depot, Suite 200
214 4th Street East
St. Paul, Minnesota 55101
(651) 266-2760

REGIONAL RAILROAD AUTHORITY MEETING

September 11, 2012

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

.....
ROLL CALL and Call to Order

AGENDA of the September 11, 2012 Regional Railroad Authority Meeting is presented for approval.

MINUTES of the August 7, 2012 Regional Railroad Authority Meeting is presented for approval.

ADMINISTRATIVE AGENDA

1. Amendment to the Memorandum of Agreement between City of Saint Paul and Metropolitan Council for the Brownfields Assessment Coalition

Board Action Requested:

- 1) Approve the Amendment to the Memorandum of Agreement between the City of Saint Paul, Metropolitan Council and Ramsey County Regional Railroad Authority.
- 2) Authorize the Chair to execute the Amendment.

2. Agreement with District Councils Collaborative for Jobs Central Project

Board Action Requested:

- 1) Approve the agreement with District Councils Collaborative of Saint Paul and Minneapolis, 1080 University Avenue West, Saint Paul, Minnesota, 55104, for Community Outreach and Engagement Services for the period of September 11, 2012 to November 15, 2013, in the amount of \$109,950.
- 2) Authorize the Chair and Chief Clerk to execute the agreement.

POLICY AGENDA

3. Maximum Tax Levy for the Ramsey County Regional Railroad Authority 2013 Budget

Board Action Requested:

Approve the proposed maximum tax levy of \$19,938,811 to finance the 2013 Ramsey County Regional Railroad Authority Budget, which in accordance with the Proposed Property Taxes Law, must be certified to the Department of Property Records and Revenue by September 15, 2012.

CORRIDOR UPDATES

ADJOURNMENT

RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY

August 7, 2012

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 Paul Zisla, Assistant County Attorney, Ramsey County Attorney's Office.

Chair McDonough called the meeting to order at 9:40 A.M.

AGENDA

Commissioner Carter moved approval of the Agenda of the August 7, 2012 Regional Railroad Authority Meeting, seconded by Commissioner Parker. Roll Call: Ayes – Reinhardt, Rettman, Bennett, Carter, Ortega, Parker, McDonough – 7. Nays – 0.

MINUTES

Commissioner Carter moved approval of the Minutes of the July 24, 2012 Regional Railroad Authority Meeting, seconded by Commissioner Parker. Roll Call: Ayes – Reinhardt, Rettman, Bennett, Carter, Ortega, Parker, McDonough – 7. Nays – 0.

Chair McDonough said today they have four actions for approval and they are all related to public art at the Union Depot. He invited Tim Mayasich, Director, Ramsey County Regional Railroad Authority (RCRRA), and Josh Collins, Public Communications Manager, RCRRA, to give a brief overview of the public art process and how they arrived at the selection of the four artists.

Mr. Mayasich turned the presentation to Mr. Collins, who would provide the overview of the public art process they utilized to select four finalists for contracts.

Mr. Collins said the Federal Transit Administration (FTA) encourages large-scale federally funded projects to fund a public art program and the common governmental agency practice is to establish a 1% for art program. When RCRRA looked our capital budget, we budgeted \$1.25 million for public art at the Union Depot, which represents just below 1% for art. Eighty percent of the funding for public art—\$1 million of the \$1.25 million—is provided by the FTA. In April, RCRRA put out a "Call to Artists", otherwise known as the Request for Proposals (RFP), looking for artists to apply to the public art program. There was a robust process ahead of that, in which opportunities were identified within the Union Depot where public art commissions could reside; the four locations are the Carriageway, the Great Hall Atrium, the Kellogg Entry, and a building-wide interactive multi-media platform to engage customers and community to interface with the artwork.

An artists' selection panel was formed to provide the recommendation to the RCRRA board. The FTA also had guidelines on how the selection process is approached. They suggest that the panel be comprised of community members, business members, artists and art professionals. RCRRA also included a representative of the Saint Paul Heritage Preservation Commission.

The Call to Artists resulted in 156 responses nationally and internationally. Several artists applied to multiple commissions, which resulted in the review of about 250 applications. This clearly represents the overwhelming interest and enthusiasm artists had for this project. The panel went through a time-intensive process to review the applications which included exploring the artists' previous work, the appropriateness of their work types in the Union Depot setting, and their community engaging experience. Through this review process, the panel arrived at the selection of four artists or artist teams to be commissioned for the art program at the Union Depot.

The first artist team selected is Amy Baur and Brian Boldon of In Plain Sight Art studios, which is a local firm from Minneapolis. They work in ceramic tile and glass, and the panel is recommending this team for the Carriageway. This team works with digital imagery that is glazed and becomes part of the ceramic tile, which is a fantastic opportunity to incorporate the history and legacy of the Union Depot into this art space and help to tell the story to riders arriving at the Union Depot. The second artist is Ray King, who is from Philadelphia, and is being recommended for the Great Hall Atrium. Ray King is an internationally known artist who creates

suspended sculptures often of glass or crystal elements that will reflect light. The panel believed his work has the right elegant touch for the Atrium. The third artist is Tim Prentice from West Cornwall, CT, who does kinetic sculptures that move and respond to air flows. He is being recommended for the Kellogg Entry. The fourth artist being recommended for the multi-media platform throughout the building is a local artist from Minneapolis named Steve Dietz of Northern Lights.mn Inc. This artist assembled a team that is comprised of local, national and international artists.

Mr. Collins said it may be noted that the total of these four commissions does not represent the entire \$1.25 million; the remaining funds are being held for unforeseen costs, as well as the possibility add an additional art commission for the Union Depot.

Commissioner Parker thanked Mr. Collins for the detailed explanations of each of the art programs. She said this is very exciting and important for the Union Depot as it will be a destination, and she is pleased with the work that was done to get to this point.

Commissioner Carter said she also appreciated the RFP process and the process of working to engage the diverse community. She also appreciates the focus on historic preservation and heritage; however, she wants to ensure that the historic focus is not just about the building and architecture, but rather about the destinations and cultures of the people who came here. She said she looks forward to seeing the ongoing process of the art program. She asked about the process, as the artists create their concepts for approval, how they will ensure that these historic journeys will be represented in the work, and also how they will include and recognize the communities.

Mr. Collins said all of these artists will engage the communities in different ways. For example Amy Baur and Brian Boldon of In Plain Sight, Inc proposed holding a type of forum as an opportunity to reach out to the community in order to collect information on the photographs that have told the stories over the years. This team has done public involvement ranging from public meetings to private conversations in community peoples' homes to go through their personal photo collections to find those important pieces. He said he expects their public outreach will be very hands-on in meeting with people, and then building a visual story in the Carriageway that is representative of those tales.

Chair McDonough reiterated Commissioner Carter's question of what the public process will be in actually approving each of the submitted proposals.

Mr. Collins said the artists now have a period of time to do their design work. They are required to inform their design in various ways. They will engage the community and set meetings with local historians and community members, so that it isn't just focused on the history of the building. The artists will build a conceptual design for submission to the same panel that selected the artists for proposals. The panel will then recommend changes, alterations, or approval, and then the artists will go into a final design phase.

Commissioner Carter said she is pleased they will continue to engage with a panel to review the art proposals. She was reminded of the process of public art that occurred along the Central Corridor Light Rail Project, and reflecting on the manner in which communities were brought together to look at concepts that the artists were proposing, and to provide the artist with input and a rich opportunity for concepts. She, therefore, is trying to understand how people from our community will be involved beyond the selection panel in these art proposals for the Union Depot. She knows that in forming a panel, it is difficult to include everyone desired, and there are people in community beyond the panel who can still be useful to this process, particularly for the perspective of the history of community. She said she hopes this is not a closed process at this time, but that there is still an opportunity to think about others in the community who can participate and add tremendously to this process. She said she speaks to this very personally because of families she knows who have arrived here through the Union Depot and who have an important history to cultures in our community, particularly the African American cultures. It is important to her that the element that represents the arrival of people from different countries and cultures is reflected here. She said she would like to ensure that they can receive a report on the art concepts before they are finalized.

Mr. Collins responded that he believes there is opportunity for that input. A fundamental part of the public art design process is having an authentic involvement with the community. Therefore, he knows that they are

eager to work with the community to find all the various perspectives, and is confident and will assure that this is kept forefront in their minds as we move forward.

Commissioner Rettman commented that public art is "not her thing." She said she would like to have seen artists from Saint Paul be selected for the Union Depot art programs because they already have that connection to all of the communities. She said we have a responsibility to the tax payers to give those jobs to our local people.

Commissioner Ortega commented that he is pleased with the outcome of bringing in people from different parts of our nation and commended the process. He said perhaps with the contingency funds they can fill in the gap with local artists who can contribute to the history element.

Commissioner Carter acknowledged Commissioner Rettman's points and said in this competition we could continue to elevate the priority for the appointment local artists. She also appreciates the opportunity to consider those remaining funds to fill the gaps, but that it is incorporated during this process. She requests that they have an update as to how this process is moving forward and how they have encompassed the reflection of the community in the process.

Chair McDonough said it is important to continue to receive updates on the process and be engaged as a board, but it also needs to be understood that they brought together a tremendous amount of people from the community to be a part of this process and they take the responsibility they've been given very seriously. He doesn't want the panel to feel as though we can undo all the work they did in the selection process. We need to have some confidence in the system and processes we have established here if we are going expect quality results from the people who have committed to being a part of this process for us.

Commissioner Parker commented that she had the experience of being involved with a public art process, and one thing she learned is that when you commission public art you really cannot tell the artist what you want them to do. Artists can be chosen based on their medium and style, and they can be given some suggestions, but you are buying their creativity and that's part of the process.

Commissioner Reinhardt commented that updates on the process should not mean we would make changes. With the leftover funds, we can go through the same process to determine what else we can add, but not modifying what is being approved here today.

Commissioner Carter commented that without wanting to direct the artists, we do have a responsibility to ensure the guidance that the artists need to assure our community is reflected in the public art. She believes there is a need for greater representation and opportunity on the review panel, and asks for updates on the process.

1. Contract with In Plain Sight, LLC to design, fabricate and install public art at the Union Depot

Commissioner Parker moved approval of the following resolution, seconded by Commissioner Reinhardt. Roll Call: Ayes – Reinhardt, Bennett, Carter, Ortega, Parker, McDonough – 6. Nays – Rettman – 1. (R12-31)

WHEREAS, The Ramsey County Regional Railroad Authority, along with the Federal Transit Administration, recognizes the importance of public art to the overall success and viability of the The Union Depot Multi-Modal Transportation and Transit Hub ("Depot"); and

WHEREAS, The Federal Transit Administration's recognition of importance is coupled with a commitment of \$1 million in funding towards the public art program; and

WHEREAS, Public art provides a unique opportunity to recognize and celebrate the rich histories of the Union Depot, St. Paul and the Lowertown neighborhood; and

WHEREAS, Public art at the Union Depot will complement the power of the existing architectural elements, supporting the Union Depot as a destination community space, while serving to enhance the enjoyment of those passing through the public spaces; and

WHEREAS, On November 22, 2011, by resolution R12-13 Ramsey County Regional Railroad Authority authorizes the issuance of a Call to Artists (Request for Proposals) for Public Art Commissions at the Union Depot in accordance with Ramsey County policies and procedures on Requests for Proposals, with direction to staff to return to the Ramsey County Regional Railroad Authority with a selection of artists for contracting authorization; Now, Therefore, Be It

RESOLVED, The Ramsey County Regional Railroad Authority approves a contract with In Plain Sight, LLC, 681 17th Ave NE, Studio 121, Minneapolis, MN 55413, for commission of public art at the Union Depot for the period of 8/7/2012 through 12/31/2013, in the amount of \$150,000; And Be It Further

RESOLVED, The Ramsey County Regional Railroad Authority authorizes the Chair to execute the contract; And Be It Further

RESOLVED, The Ramsey County Regional Railroad Authority authorizes the Ramsey County Manager to make all necessary budget adjustments including increasing estimated revenues and appropriations.

2. Contract with Ray King Studio Ltd to design, fabricate and install public art at the Union Depot

Commissioner Reinhardt moved approval of the following resolution, seconded by Commissioner Ortega. Roll Call: Ayes – Reinhardt, Bennett, Carter, Ortega, Parker, McDonough – 6. Nays – Rettman – 1. (R12-32)

WHEREAS, The Ramsey County Regional Railroad Authority, along with the Federal Transit Administration, recognizes the importance of public art to the overall success and viability of the The Union Depot Multi-Modal Transportation and Transit Hub ("Depot"); and

WHEREAS, The Federal Transit Administration's recognition of importance is coupled with a commitment of \$1 million in funding towards the public art program; and

WHEREAS, Public art provides a unique opportunity to recognize and celebrate the rich histories of the Union Depot, St. Paul and the Lowertown neighborhood; and

WHEREAS, Public art at the Union Depot will complement the power of the existing architectural elements, supporting the Union Depot as a destination community space, while serving to enhance the enjoyment of those passing through the public spaces; and

WHEREAS, On November 22, 2011, by resolution R12-13 Ramsey County Regional Railroad Authority authorizes the issuance of a Call to Artists (Request for Proposals) for Public Art Commissions at the Union Depot in accordance with Ramsey County policies and procedures on Requests for Proposals, with direction to staff to return to the Ramsey County Regional Railroad Authority with a selection of artists for contracting authorization; Now, Therefore, Be It

RESOLVED, The Ramsey County Regional Railroad Authority approves a contract with Ray King Studios Ltd., 200 835 N. 3rd Street, Philadelphia, PA 19123, for commission of public art at the Union Depot for the period of 8/7/2012 through 12/31/2013, in the amount of \$200,000; And Be It Further

RESOLVED, The Ramsey County Regional Railroad Authority authorizes the Chair to execute the contract; And Be It Further

RESOLVED, The Ramsey County Regional Railroad Authority authorizes the Ramsey County Manager to make all necessary budget adjustments including increasing estimated revenues and appropriations.

3. Contract with Prentice Colbert, Inc to design, fabricate and install public art at the Union Depot

Commissioner Ortega moved approval of the following resolution, seconded by Commissioner Parker. Roll Call: Ayes – Reinhardt, Bennett, Carter, Ortega, Parker, McDonough – 6. Nays – Rettman – 1. (R12-33)

WHEREAS, The Ramsey County Regional Railroad Authority, along with the Federal Transit Administration, recognizes the importance of public art to the overall success and viability of the The Union Depot Multi-Modal Transportation and Transit Hub ("Depot"); and

WHEREAS, The Federal Transit Administration's recognition of importance is coupled with a commitment of \$1 million in funding towards the public art program; and

WHEREAS, Public art provides a unique opportunity to recognize and celebrate the rich histories of the Union Depot, St. Paul and the Lowertown neighborhood; and

WHEREAS, Public art at the Union Depot will complement the power of the existing architectural elements, supporting the Union Depot as a destination community space, while serving to enhance the enjoyment of those passing through the public spaces; and

WHEREAS, On November 22, 2011, by resolution R12-13 Ramsey County Regional Railroad Authority authorizes the issuance of a Call to Artists (Request for Proposals) for Public Art Commissions at the Union Depot in accordance with Ramsey County policies and procedures on Requests for Proposals, with direction to staff to return to the Ramsey County Regional Railroad Authority with a selection of artists for contracting authorization; Now, Therefore, Be It

RESOLVED, The Ramsey County Regional Railroad Authority approves a contract with Prentice Colbert, Inc., 129 Lake Road, West Cornwall, CT 06796, for commission of public art at the Union Depot for the period of 8/7/2012 through 12/31/2013 in the amount of \$200,000; And Be It Further

RESOLVED, The Ramsey County Regional Railroad Authority authorizes the Chair to execute the contract; And Be It Further

RESOLVED, The Ramsey County Regional Railroad Authority authorizes the Ramsey County Manager to make all necessary budget adjustments including increasing estimated revenues and appropriations.

4. Contract with Northern Lights.mn, Inc to design, fabricate and install public art at the Union Depot

Commissioner Parker moved approval of the following resolution, seconded by Commissioner Reinhardt. Roll Call: Ayes – Reinhardt, Bennett, Carter, Ortega, Parker, McDonough – 6. Nays – Rettman – 1. (R12-34)

WHEREAS, The Ramsey County Regional Railroad Authority, along with the Federal Transit Administration, recognizes the importance of public art to the overall success and viability of the The Union Depot Multi-Modal Transportation and Transit Hub ("Depot"); and

WHEREAS, The Federal Transit Administration's recognition of importance is coupled with a commitment of \$1 million in funding towards the public art program; and

WHEREAS, Public art provides a unique opportunity to recognize and celebrate the rich histories of the Union Depot, St. Paul and the Lowertown neighborhood; and

WHEREAS, Public art at the Union Depot will complement the power of the existing architectural elements, supporting the Union Depot as a destination community space, while serving to enhance the enjoyment of those passing through the public spaces; and

WHEREAS, On November 22, 2011, by resolution R12-13 Ramsey County Regional Railroad Authority authorizes the issuance of a Call to Artists (Request for Proposals) for Public Art Commissions at the Union Depot in accordance with Ramsey County policies and procedures on Requests for Proposals, with

direction to staff to return to the Ramsey County Regional Railroad Authority with a selection of artists for contracting authorization; Now, Therefore, Be It

RESOLVED, The Ramsey County Regional Railroad Authority approves a contract with Prentice Colbert, Inc., 129 Lake Road, West Cornwall, CT 06796, for commission of public art at the Union Depot for the period of 8/7/2012 through 12/31/2013 in the amount of \$200,000; And Be It Further

RESOLVED, The Ramsey County Regional Railroad Authority authorizes the Chair to execute the contract; And Be It Further

RESOLVED, The Ramsey County Regional Railroad Authority authorizes the Ramsey County Manager to make all necessary budget adjustments including increasing estimated revenues and appropriations.

5. 2013 Ramsey County Regional Railroad Authority Supplemental Budget

Tim Mayasich, Director, Ramsey County Regional Railroad Authority (RCRRA) presented the RCRRA board with the RCRRA 2013 Supplemental Budget and Addenda.

RCRRA staff has included new performance measures for two critical success indicators that support the County's goal. The RCRRA has historically performed as a transportation and transit planning-based department, but is now responsible for the operation of the Union Depot. Performance measures in the past had been based on milestones for RCRRA projects, they have now evolved into items that can be measured.

Mr. Mayasich shared with the Board some of the opportunities and challenges the department will face in the future:

- Economic development: We must work to ensure that the East Metro remains competitive in the region in terms of the build out of transit corridors. We need to ensure the region considers geographic balance when making capital investment decisions in the region. We need to partner with the Lowertown community to sustain the upstart in redevelopment activity in and around the Union Depot and Lowertown.
- If BRT becomes the locally preferred alternative for a corridor, special legislation will be required to allow the RCRAA the authority to expend levy dollars on buses.
- The next federal transportation bill (Map 21) does not include TIGER GRANT or earmarks. There will be fewer federal funds available for transit infrastructure. National competition for these funds will be escalated beyond what is already a very competitive process.

RCRRA staff is proposing two addenda to the 2013 approved budget. The first item establishes a debt service budget in the amount of \$168,000. In March 2012, the RCRRA borrowed \$10,000,000 from U.S. Bank National Association to provide funds for capital costs associated with the Union Depot project. The establishment of a debt service account is required to pay the principal and interest of the loan.

The second budget addenda item is an increase in the 2013 Union Depot operating budget. Mr. Mayasich explained that from many previous reports to the RCRRA, the Union Depot operating budget was presented as an estimated amount.

On July 24th, the RCRRA approved a property management and activation and development services contract with Jones Lang LaSalle for the Union Depot. The current Jones Lang LaSalle budget for 2013 is estimated to be \$2,000,000 more than what the RCRRA budgeted for Union Depot operating expenditures for 2013. These increases are due primarily to staffing and marketing cost estimates.

Neither budget addenda include an increase to the tax levy as the RCRRA continues the long-term capital financing plan adopted in 2005 for funding the RCRRA's share of transit projects. Since 2007, the RCRRA tax levy has been approved for \$19,938,811.

Commissioner Parker asked how much the RCRRA budgeted for 2013 and what is the total with the \$2,000,000 increase. She also asked why there was an increase.

Kris Longhenry, Administrative Assistant/Accountant, RCRRA, said the 2013 budget was originally budgeted for a little over \$2,000,000; therefore the budget will be increased to about \$4,000,000.

Mr. Mayasich said the original budget was an estimate. The contract with Jones Lang LaSalle requires that by the middle of October 2012, Jones Lang LaSalle needs to provide us with their cost estimate for the remainder of 2012 and their budget estimate for 2013. We are beginning with minimum staff with Jones Lang LaSalle and we anticipate the estimate will be considerably less than what is being included in the budget proposal. This is an ongoing budget that will fluctuate depending on Jones Lang LaSalle staff that is hired for the Union Depot project. Jones Lang LaSalle believes it will be a slow increase in staffing. As the vision is realized, more programming will require more Jones Lang LaSalle staff; therefore it will be an increase in the budget.

Commissioner Parker commented that in comparison to the Landmark Center, this seems like a lot more in operating costs.

Commissioner Reinhardt commented that with the revenue gained once the Union Depot is fully operational, these costs would be offset. She asked if it is known how much we would offset.

Mr. Mayasich said this is currently being discussed with Jones Lang LaSalle and we will have a better understanding of the budget flow in October. He said, as an example, we have had almost no parking available to the public at the Union Depot, and parts of the east Broadway parking have been inaccessible, but once operational, parking is expected to be a large revenue generator for us. Leasing spaces in the Union Depot for tenants will also bring in revenue.

Commissioner Reinhardt requested that, in October, the RCRRA be presented with information as to not only Jones Lang LaSalle's budget, but also what they are anticipating in revenue sources while Jones Lang LaSalle is on board. This is the only way we can truly judge it.

Chair McDonough said this is a test of the private market. To be able to predict the confidence of the private market, is not necessarily a reflection on the Union Depot; there are many factors that determine when and where private revenue will be generated and how quickly. The budget planning and actions of RCRRA is setting us to be well positioned to provide the confidence for private dollars to want to invest in the Union Depot. This is much different than the Landmark Center, which focuses on the nonprofits in the community, and only generates revenue by the leasing of the event space. The rest of the Landmark Center is not expected to provide a profit or even carry the operating costs. The Union Depot is a unique opportunity to not only cover our costs, but also bring in revenue as the private market begins to invest in the Union Depot.

Commissioner Ortega commented that there is currently not a baseline because we are establishing the baseline now and this is what the next couple of years will be about.

Commissioner Reinhardt commented that Jones Lang LaSalle has the track record reputation of knowing how to make this profitable. There is a great deal of incentive to make this work.

Commissioner Rettman wanted to clarify that High Speed Rail, Rush Line, Gateway, and other routes being established are included on page five of the Performance Measures – Highlights, even though they aren't mentioned. She also clarified that on page six, the Union Depot will be the living room of Ramsey County, and not just St. Paul, and the catalyst for development of the East Metro, and not just downtown St. Paul. She asked that the RCRRA provide complete information on the fund balance equation. She also pointed out that the Department Mission is also to provide "cost effective" transit alternatives.

CORRIDOR UPDATES

- Gateway

Commissioner Ortega reported that Gateway Policy Advisory Committee (PAC) met on Wednesday, July 25. The PAC recommended to the Gateway Corridor Commission that three of the six alternatives currently under study receive additional analysis through full model runs. These

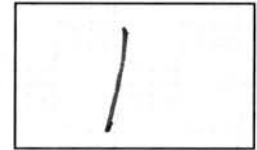
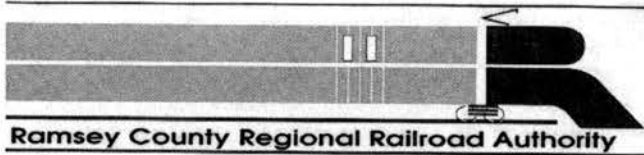
alternatives included Alternative 3, BRT running parallel to I-94, LRT running parallel to I-94, and BRT Managed Lane in the middle of I-94.

- Robert Street

Commissioner Ortega reported that a three hour workshop was held to discuss the corridor's destinations aside from the Union Depot. A report will be provided when the group meets again.

ADJOURNMENT

There being no further business, Chair McDonough declared the meeting adjourned at 10:45 A.M.



REQUEST FOR ACTION

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

Regional Railroad Authority Meeting Date: 9/11/2012

Regional Railroad Authority Meeting Date:

SUBJECT: Amendment to the Memorandum of Agreement with City of Saint Paul and Metropolitan Council for the Brownfields Assessment Coalition

EXECUTIVE SUMMARY:

In November 2008, the City of Saint Paul asked the Metropolitan Council and Ramsey County Regional Railroad Authority (RCRRA) to serve as coalition partners on an application to the Environmental Protection Agency's (EPA) Brownfield Assessment Grant Program. The EPA's Brownfields Program empowers states, communities, and other stakeholders to work together to prevent, assess, safely clean up, and sustainably reuse brownfields. The focus of the assessments is the five-mile-long Transit Opportunity Zone from Rice Street to the western border of the city.

On August 24, 2009, the EPA awarded the Cooperative Agreement for a Coalition Brownfield EPA Assessment Grant for Hazardous Substances and Petroleum to the City of Saint Paul. The grant period is October 1, 2009 through September 30, 2012. The City of Saint Paul is responsible to EPA for management of the cooperative agreement and compliance with the statutes, regulations, and the terms and conditions of the award. On January 12, 2010 the RCRRA approved a Memorandum of Agreement with the City and the Metropolitan Council for the grant. To date, full or partial investigations have been conducted on fourteen properties.

Funds have not been spent at the rate originally projected and the City has requested a one-year extension to September 30, 2013. EPA has agreed to the extension. The Memorandum of Agreement needs to be extended for one year to be consistent with the grant agreement.

ACTION REQUESTED:

1. Approve the Amendment to the Memorandum of Agreement between the City of Saint Paul, Metropolitan Council and Ramsey County Regional Railroad Authority.
 2. Authorize the Chair to execute the Amendment.
- 1

SUBJECT: Amendment to the Memorandum of Agreement with City of Saint Paul and Metropolitan Council for the Brownfields Assessment Coalition

ATTACHMENTS:

Amendment to the Memorandum of Agreement with City of Saint Paul and Metropolitan Council for the Brownfields Assessment Coalition

PREVIOUS ACTION:

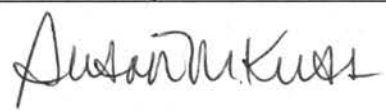
Resolution R10-10 approving the Memorandum of Agreement with the City of Saint Paul and Metropolitan Council for the Brownfields Assessment Coalition.

COUNTY MANAGER'S COMMENTS:

The Memorandum of Agreement will allow the City of St. Paul to continue to use Environmental Protection Agency (EPA) funding to identify where hazardous materials may exist in the transit opportunity zones. Land use and permitting are the responsibility of the City of St. Paul.

SUBJECT: Amendment to the Memorandum of Agreement with City of Saint Paul and Metropolitan Council for the Brownfields Assessment Coalition

Regional Railroad Authority – Authorized Signature	Date
	9/4/12

Budgeting & Accounting – Authorized Signature	Date
	9/4/12

County Attorney – Authorized Signature	Date
	9/5/12

Property Management – Authorized Signature	Date

Information Services – Authorized Signature	Date

Other – Authorized Signature	Date

SUBJECT: Amendment to the Memorandum of Agreement with City of Saint Paul and Metropolitan Council for the Brownfields Assessment Coalition

Draft Resolution

1
2 WHEREAS, The City of Saint Paul entered a Memorandum of Agreement with the
3 Metropolitan Council and RCRRA for funding from the Environmental Protection Agency (EPA)
4 from its Brownfield Assessment Grant Program to evaluate environmental conditions along the
5 Central Corridor; and

6
7 WHEREAS, The EPA awarded the City of Saint Paul with its collation partners a Brownfield
8 Assessment Grant in August 2009, to be completed by September 30, 2012; and

9
10 WHEREAS, The scheduled completion of the work is now September 30, 2013 as approved
11 by EPA, Now, Therefore, Be It

12
13 RESOLVED, Ramsey County Regional Railroad Authority approves the Amendment to the
14 Memorandum of Agreement between the City of Saint Paul, Metropolitan Council and Ramsey
15 County Regional Railroad Authority; and Be It Further

16
17 RESOLVED, The Ramsey County Regional Railroad Authority authorizes the Chair to
18 execute the Amendment.

METROPOLITAN COUNCIL

390 North Robert Street, St. Paul, MN 55101-1805
(651) 602-1000

AMENDMENT NUMBER ONE

to

**Brownfields Assessment Coalition
Memorandum of Agreement**

Metropolitan Council Contract No. 10M002

WHEREAS, the City of St. Paul, the Metropolitan Council and the Ramsey County Regional Rail Authority, (collectively "the Parties") entered into a Memorandum of Agreement ("Agreement") effective January 27, 2010 to document the roles and responsibilities of the Parties with regard to the Environmental Protection Agency ("EPA") Assessment Grant for Hazardous Substances and Petroleum No: BF-00E94101-0; and

WHEREAS, the EPA granted a no-cost extension to Assessment Grant for Hazardous Substances and Petroleum No: BF-00E94101-0.

NOW, THEREFORE, the Parties hereby agree that the Agreement entered into on January 27, 2010 is Amended in the following particulars:

1. **Paragraph 2.** Paragraph 2 is deleted in its entirety and the following inserted in its place.

"2. On August 24, 2009 EPA awarded the Cooperative Agreement for a Coalition Brownfield EPA Assessment Grant for Hazardous Substances and Petroleum to the Lead Coalition Member: City of St. Paul. The grant period, as originally awarded, was from October 1, 2009 through September 30, 2012. On June 28, 2012, the EPA amended the grant period to extend through September 30, 2013. The City of St. Paul is responsible to EPA for management of the cooperative agreement and compliance with the statues, regulations, and terms and conditions of the award, and ensuring that all members of the coalition are in compliance with the terms and conditions."

Except as amended hereby, the provisions of the above-referenced Agreement shall remain in force and effect without change.



IN WITNESS WHEREOF, the parties have caused this amendment to be executed by their duly authorized representatives. This amendment is effective on the date it is issued by authorized representatives of all Parties.

Cecile Bedor,
Director, Planning and Economic Development
City or St. Paul
Date

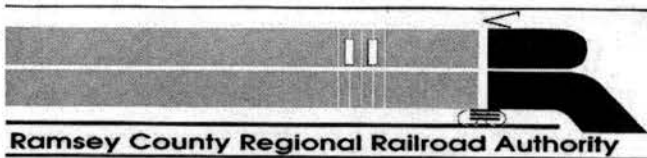
Patrick P. Born
Regional Administrator
Metropolitan Council
Date

Timothy A. Mayasich
Director
Ramsey County Regional Rail Authority
Date

Jim McDonough
Chair
Ramsey County Regional Rail Authority
Date

Approved as to form and insurance:

Paul B. Zisla
Assistant County Attorney
Ramsey County
Date



2

REQUEST FOR ACTION

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

Regional Railroad Authority Meeting Date: 09/11/2012

Regional Railroad Authority Meeting Date:

SUBJECT: Agreement with District Councils Collaborative for Jobs Central Project

EXECUTIVE SUMMARY

In February 2011, Ramsey County Regional Railroad Authority was awarded \$247,000 as part of a \$5 million grant from the federal Housing and Urban Development ("HUD") Sustainable Communities Initiative received by the Metropolitan Council on behalf of the Twin Cities regional *Corridors of Opportunity* initiative (**Attachment 1**). The purpose of the \$247,000 grant is to implement *Jobs Central*, a project piloting workforce and economic development strategies on Central Corridor in Saint Paul and Minneapolis (the "Project").

A number of key strategies are being piloted to assist businesses and unemployed and underemployed residents within the Central Corridor connect to existing workforce and economic development resources. The Project has four objectives:

1. Work with corridor-based businesses in three growing industry sectors (transportation/warehousing, manufacturing, and health services) to understand their hiring needs, trends and skills requirements for entry level occupations with potential to advance within the business.
2. Work with a minimum of 400 unemployed and underemployed corridor residents in four neighborhoods (Frogtown, Summit University, Cedar Riverside, Glendale community within Prospect Park) to understand their employment needs, skills and career aspirations.
3. Work with existing community and workforce resources to provide supports, connections, training and/or credentials that meet business and job seeker needs.
4. Use business and job seeker needs/information to improve workforce and economic development systems, and inform policy makers and others by providing a summary report of findings, lessons learned, and recommendations for systems changes.

(The Executive Summary is continued on the following page)

ACTION REQUESTED

- 1) Approve the agreement with District Councils Collaborative of Saint Paul and Minneapolis, 1080 University Avenue West, Saint Paul, Minnesota, 55104, for Community Outreach and Engagement Services for the period of September 11, 2012 to November 15, 2013, in the amount of \$109,950.
- 2) Authorize the Chair and Chief Clerk to execute the agreement.

SUBJECT: Agreement with District Councils Collaborative for Jobs Central Project

EXECUTIVE SUMMARY (continued from Page 1)

The Project's goal is to sustain the community's increased knowledge of and connections to resources, and to build relationships between residents, service providers and employers in the community; and to provide relevant recommendations and learning that informs ways to improve the efficacy of the workforce and economic development systems in other transit corridors.

One of the primary strategies in working with Corridor residents is the use of "career connectors": a small number of members of these communities who are recruited and trained by the Project. Using their networks and knowledge of the community, the career connectors will reach out to unemployed and underemployed residents and connect residents to resources, skill-building and networking opportunities. The purpose is for residents to cultivate self-determination and build a career path for a lifetime of employment.

This outreach would be accomplished most effectively by members of the various geographic and cultural communities within the Corridor who bring with them the experience of unemployment/underemployment; knowledge of and deep connections to community; who are seen by the community as trustworthy and approachable; who can help frame hope and aspiration; and who can advocate for others, when needed, as residents take their next steps toward their career and employment goals.

An early step in designing the Project was holding meetings with leaders identified within the cultural and geographic communities of the priority neighborhoods along Central Corridor to gather insights into challenges facing their communities, resources within the communities, and strategies that might provide value or benefit to the community. A summary of the community input is attached (**Attachment 2**). The community leaders expressed significant support for utilizing members of the community with deep connections in the community to serve as "connectors" to make contact and connections with residents. Through this process, Project staff gained knowledge of the experience of the District Councils Collaborative of Saint Paul and Minneapolis ("DCC"), and the leadership of Melvin Giles along with the community's recognition of that experience and leadership.

The DCC is in a unique position to fulfill the outreach and engagement services to the project for the following reasons. The DCC:

- has a presence in, and serves all the communities that comprise the Central Corridor.
- was created with a mission to advocate on behalf of the community in response to the planned development of Central Corridor and its impact on the community.
- has Board representation comprised of, elected by, and responsible to all district planning councils and formal neighborhood associations in Central Corridor.
- has experienced staff that has demonstrated culturally responsive knowledge and practices.
- has seasoned staff with experience and capacity to guide and oversee the successful implementation of the community outreach and engagement process.
- has agreed to hire a long-term member of—and leader in—the community, who was recommended by others to have a lead role in the Project
- can provide the consistency in the oversight and implementation of the Project in all four geographic communities while accommodating the unique needs represented by the communities along the Corridor

SUBJECT: Agreement with District Councils Collaborative for Jobs Central Project

EXECUTIVE SUMMARY (continued from Page 2)

The proposed plan to contract with the DCC, including Melvin Giles as a lead staff, was brought before three groups/entities to solicit any issues, feedback and/or concerns:

1. The Jobs Central Project Team (**Attachment 3**).
2. The 27 community leaders initially interviewed (included in **Attachment 2**).
3. Staff from the Metropolitan Council and HUD's Government Technical Representative (GTR) was consulted to determine whether there was any concern or if there were any restrictions in contracting under these circumstance; neither objected to the plan to contract.

There were no concerns expressed regarding DCC or the planned staffing, nor were any other organizations identified that could serve in the same capacity.

The Agreement (**Attachment 4**) is for community outreach and engagement services for the amount not to exceed \$109,950 for the period of September 11, 2012 through November 15, 2013.

SUBJECT: Agreement with District Councils Collaborative for Jobs Central Project

ATTACHMENTS:

1. Corridors Of Opportunity initiative
2. Community Engagement Summary Report
3. Jobs Central Project Team Members
4. Agreement with District Councils Collaborative of Saint Paul and Minneapolis

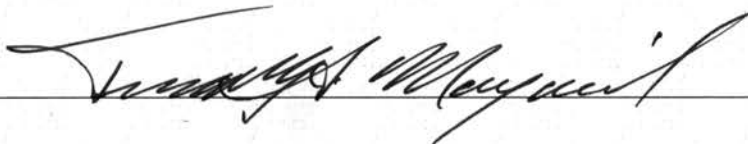
PREVIOUS ACTION:

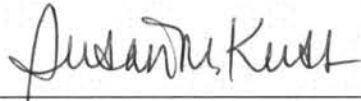
The Ramsey County Regional Railroad Authority approved the Sub recipient Agreement with Metropolitan Council on June 7, 2011 (Resolution R11-19).

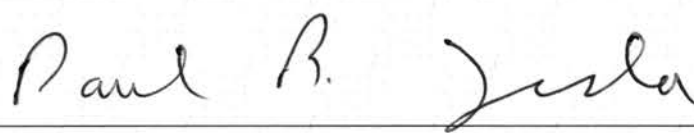
COUNTY MANAGER'S COMMENTS:

A significant inclusive and transparent public process resulted in a positive recommendation for this Agreement. No other organizations or individuals within the community were suggested as alternatives for consideration.

SUBJECT: Agreement with District Councils Collaborative for Jobs Central Project

Regional Railroad Authority – Authorized Signature	Date
	9/4/12

Budgeting & Accounting – Authorized Signature	Date
	9/4/12

County Attorney – Authorized Signature	Date
	9/5/12

Property Management – Authorized Signature	Date

Information Services – Authorized Signature	Date

Other – Authorized Signature	Date

Subject: Agreement with District Councils Collaborative for Jobs Central Project

Draft Resolution

1 WHEREAS, The Jobs Central Project ("Jobs Central") has been funded under the Corridors
2 of Opportunity regional initiative by a U.S. Department of Housing and Economic Development
3 ("HUD") Sustainable Communities Initiative grant through the Metropolitan Council to Ramsey
4 County Regional Railroad Authority ("RRA") for the purpose of better aligning workforce and
5 economic development strategies in the Central Corridor in Saint Paul and Minneapolis
6 ("Corridor"); and
7

8 WHEREAS, Jobs Central's activities are focused on low-income, unemployed and under-
9 employed Corridor residents from a range of cultural and racial communities who have little or no
10 connections to existing formal workforce resources; and
11

12 WHEREAS, Jobs Central wishes to contract with a community organization to provide
13 community outreach and engagement to connect Corridor residents to workforce development
14 resources in the community; and
15

16 WHEREAS, Jobs Central's geographic focus requires an organization experienced in
17 working in the communities along the Corridor in both Saint Paul and Minneapolis; and
18

19 WHEREAS, The District Councils Collaborative of Saint Paul and Minneapolis
20 ("Contractor") was formed to work with communities along the Corridor; and
21

22 WHEREAS, The Contractor's experience performing community outreach and engagement
23 in the
24 Corridor is consistent with Jobs Central's requirements; and
25

26 WHEREAS, The Contractor has the unique combination of geographic focus,
27 experience and capacity necessary to meet Jobs Centrals' community outreach and
28 engagement needs; and
29

30 WHEREAS, The proposal for services and budget submitted by the Contractor provides
31 the services required by Jobs Central and is within Jobs Central's budget; Now, Therefore, Be It
32
33

34 RESOLVED, The Ramsey County Regional Railroad Authority approves the agreement
35 with District Councils Collaborative of Saint Paul and Minneapolis, 1080 University Avenue
36 West, Saint Paul, Minnesota, 55104, for Community Outreach and Engagement Services for the
37 period of September 11, 2012 to November 15, 2013, in the amount of \$109,950.; And, Be It
38 Further
39

40 RESOLVED, The Ramsey County Regional Railroad Authority authorizes the Chair and
41 Chief Clerk to execute the agreement.

Attachment 1

Corridors of Opportunity Policy Board

Policy Board Co-Chairs

- Susan Haigh, Chair, Metropolitan Council
- Lee Sheehy, Director, Region & Communities Program, the McKnight Foundation

Policy Board Members

- Andriana Abariotes, Executive Director, Twin Cities LISC
- Colleen Carey, President, The Cornerstone Group
- Yvonne Cheung Ho, CEO, Metropolitan Economic Development Association (MEDA)
- Caren Dewar, Executive Director, Urban Land Institute of Minnesota
- Mary Hamann-Roland, Mayor, Apple Valley; Representative, Livable Communities Advisory Committee
- Jim McDonough, Commissioner, Ramsey County
- Chris Ferguson, Chair, Central Corridor Business Resources Collaborative (BRC)
- Louis King, President and CEO, Summit Academy OIC
- Laurie McGinnis, Director, Center for Transportation Studies, University of Minnesota; Ex Officio, Data and Evaluation Team
- Peter McLaughlin, Commissioner, Hennepin County; Chair, Counties Transit Improvement Board
- Repa Mekha, Executive Director, Nexus Community Partners; Representative, Community Engagement Team
- Ann Mulholland, Vice President, Grants and Programs, the Saint Paul Foundation
- Mark Phillips, Commissioner, Minnesota Department of Employment and Economic Development (DEED)
- Sandra Oakes, Chief Manager and President, Twin Cities Community Land Bank NEW
- Jim Roth, Executive Director, Metropolitan Consortium of Community Developers
- Elizabeth Ryan, Vice President, Family Housing Fund
- R.T. Rybak, Mayor, City of Minneapolis
- Nancy Schouweiler, Commissioner, Dakota County; representing Counties Transit Improvement Board
- Mihailo "Mike" Temali, President and CEO, Neighborhood Development Center
- Mary Tingerthal, Commissioner, Minnesota Housing
- Nancy Tyra-Lukens, Mayor, City of Eden Prairie
- Paul Williams, Deputy Mayor, City of St. Paul
- Charlie Zelle or Jay Cowles, Members, The Itasca Project

Corridors of Opportunity Partnering Agencies

- Metropolitan Council
- City of Minneapolis
- City of St. Paul
- Hennepin County
- Ramsey County
- The Counties Transit Improvement Board
- Regional Council of Mayors
- Minnesota Department of Employment and Economic Development (DEED)
- Minnesota Housing
- The McKnight Foundation
- The Local Initiatives Support Corporation (LISC)
- Urban Land Institute of Minnesota
- Twin Cities Community Land Bank
- The Saint Paul Foundation
- Metropolitan Consortium of Community Developers
- Family Housing Fund
- Central Corridor Funders Collaborative
- Central Corridor Business Resources Collaborative (BRC)
- Neighborhood Development Center
- The Itasca Project
- The Cornerstone Group
- Summit Academy OIC
- Metropolitan Economic Development Association (MEDA)

Attachment 2

Community Engagement Summary Report

***Jobs Central* Project**

August 8, 2012

Greetings,

As you may recall, in May and June we held meetings with you—and other leaders from a range of community-based organizations—to learn about the workforce needs and challenges facing your community and how the ***Jobs Central*** project could deliver positive benefit to the community. We were gathering your feedback, concerns, and insights, to learn from and shape how the ***Jobs Central*** project would unfold.

This DRAFT report is a culmination of what we gathered from those meetings. It is being presented specifically to you and others with whom we met, because it is important to us that you have the opportunity to review it and validate—or revise—its message before the report and project concept are finalized.

Our goal is for the ***Jobs Central*** project to reflect—and respond to—community needs from the perspective of the community. We hope that you will see your **voice** and your **wisdom** reflected in both the summary and the project concept.

It is important for us to know if we “heard you right”, got the message, and that the project concept looks promising in bringing benefit to the communities along Central Corridor.

We invite you to share with us anything that would help make ***Jobs Central*** more effective. We especially want to know if we missed anything important, or didn't quite capture the message you were giving us, and we welcome your input at this crucial juncture. (Please note in the email my contact information, and details about a meeting to which you are invited to attend.)

After getting your feedback, we will make any necessary adjustments and then plan to move towards implementation of the Project in September or October. We will continue to have communication and conversation in the community throughout the remainder of the ***Jobs Central*** Project duration, which is funded through 2013.

Thank you, again, for so generously sharing your time and knowledge with us, on behalf of our Project Team, as we develop the ***Jobs Central*** project along the Central Corridor, as part of the *Corridors of Opportunity* regional initiative. The information you have provided to us has been invaluable!

Warm Regards,

Janet Guthrie, Project Manager, Senior Policy Analyst, Ramsey County Manager's Office
Ellen Watters, Project Consultant, Civic Source, Inc.

Introduction

Jobs Central is a pilot project designed to align employment needs of Central Corridor businesses in three targeted industries (manufacturing, transportation/logistics, and health services) with under-employed and unemployed residents from four priority neighborhoods (Frogtown, Summit-University, Cedar-Riverside and the Glendale neighborhood of Prospect Park) along the Corridor by leveraging a range of existing workforce and training resources.

To do so, **Jobs Central** project staff needed to develop a deep understanding of the workforce challenges and skills gaps faced by residents in the four neighborhoods as well as how workforce services have traditionally been provided, and utilized, in these neighborhoods.

Project staff held a series of one-on-one meetings with leaders of cultural and/or geographic community organizations serving these neighborhoods. Meetings were held with:

Hussein Ahmed, Executive Director, West Side Community Coalition
Veronica Burt, Aurora St. Anthony NDC/Just Equity Coalition
Rick Cardenas, Executive Director, Advocating Change Together
William Collins, Jr., Executive Director, YWCA
Tait Danielson, Executive Director, Frogtown Dist 7
Tom Ellis, Director of Workforce Development, YWCA
Jose David Gallardo, Client Navigator, CLUES
Gene Gelgelu, Executive Director, African Economic Development Solutions
Melvin Giles, Community Organizer
Clarence Hightower, Executive Director, Community Action Partnership of Ramsey/Washington Counties
Karyssa Jackson, Coordinator, District Councils Collaborative
Henry Keshi, President, Glendale Neighborhood Residents Council
Irna Landrum, Executive Director, Summit University Planning Council
Kelly Matter, Vice President of Advantage Services, Commonbond Communities
Mary McKeown, Youth Services Manager, Keystone Community Services
Lois Mueller, Director of Management and Supportive Housing Development, RS Eden
Darrell Paulsen, Advocating Change Together
Nieeta Presley, Executive Director, Aurora St. Anthony NDC
Christine Pulver, Director of Basic Needs Programs, Keystone Community Services
Mary Schmidt, Manager, St. Paul Workforce Center, Dept. of Employment and Econ. Development
Alicia Smith, Employment Services Manager, American Indian Family Center
Carol Swenson, Executive Director, District Councils Collaborative
Lisa Tabor, Culture Brokers, LLC
Ann Tyler, Employment Department Manager, CLUES
Bao Vang, President and CEO, Hmong American Partnership
Abdul Kadir Warsame, Director, Riverside Plaza Tenants Association
Mike Wynne, President and CEO, EMERGE

The individual meetings have provided significant insight into how **Jobs Central** can most effectively address the concerns and needs of the various stakeholders. We have learned a great deal about the barriers to employment and training faced by some neighborhood residents, how neighborhood residents access information and resources, what services are provided in the neighborhoods, what new ways of doing business would better assist residents in finding jobs and getting training, etc.

On the following pages are the key findings from these discussions by theme/topic.

History and Context

- There is a great deal of pent-up frustration from previous efforts that promised jobs, resulting in over-promising and under-delivering expectations the community had, particularly related to construction jobs of the Central Corridor LRT project.
- A perception—particularly within the African American community—exists about assessments, with some suggesting that such assessment tools could be intentionally used to separate African Americans from others, and could be used negatively as a substitute for GED or high school diplomas.
- There is concern about any project that is perceived to be testing, studying, or experimenting on the community. Care is needed in describing what Jobs Central is piloting, and that it is not testing, studying, or experimenting on any community group or population.
- With so many organizations and projects focused on the Central Corridor neighborhoods, there is a strong desire for Jobs Central to partner with and build-on other efforts to avoid confusing residents and duplicating efforts.
- Because of the history in the Corridor as well as the need for employment and training that exists in these neighborhoods, it is critical that we communicate clearly how Jobs Central can benefit individuals without over-promising.
- Numerous studies have identified the significant and long-term racial disparities in the Twin Cities' region regarding educational attainment and employment, which is experienced and discussed with increasing openness in the community. A very real sense of fatigue and discouragement is present among those who have experienced long-term un- and under-employment.

Barriers to Employment

- The lack of previous work experience is an even greater barrier during times when employers have a wide pool of job applicants from which to hire.
- Job opportunities for people with poor English language skills are few; identifying interim jobs that don't require strong English language skills and ways to shorten time needed to gain fluency in work place literacy would be of great assistance.
- Ex-offenders face major challenges with any type of work except basic labor.
- Youth ages 18 to 24 years face major challenges finding work because they lack work experience, and many no longer have structure because they have completed, or dropped out of, school.
- Those who experience long-term unemployment and underemployment are often intimidated by the process and interaction with the workforce system. Consistent relationships with people they trust can help overcome this.
- People with disabilities continue to face discrimination in hiring and as a result have very high unemployment rates.
- Access to quality childcare is a major barrier for job seekers with children and hampers their interest and ability to go to work.
- Transportation is a barrier to employment for some job seekers, though for many, the cost of commuting is not at the forefront of their decision-making when considering a new job. Many employers currently offering jobs are in places people can't easily get to.
- The wide-spread lack of "soft skills" is a real challenge; providing assistance to job seekers with this is a real need, but is generally unfunded by the workforce system.
- Many immigrants face the challenge of having credentials and experience from their countries or origin that are not acknowledged by US employers.
- Few job seekers have a solid understanding of their own skills, and skills gaps, and how this impacts the effectiveness of their job search.

System Gaps

- Placement in a job isn't enough, especially for those who have little or no previous job experience. Success comes with support services and follow-up to ensure that the person can stay employed, either at their original job or another job. **Jobs Central** should focus on helping residents develop a pathway to employment and build their job seeking skills so that they can find and keep jobs both today and in the future.
- In Cedar-Riverside, lack of workforce resources is a concern. Riverside Plaza has a computer lab and classrooms and leaders would like employment resources to utilize this space and offer job seeking classes, job fairs, youth mentorship programs, etc.
- Reductions in federal funds for immigrant and refugee employment programs, as well as immigrants who have been in the U.S. for more than five years, has resulted in few resources available to provide the assistance that is needed.

Relationships and Communications

- Word of mouth is a very strong referral source and should be a cornerstone of **Jobs Central** outreach.
- Websites, social media, flyers, signs in windows are tools residents use to get information.
- Informal networks at community gathering spots are vital to building awareness (Golden Thymes, barbershops, for example)
- Being physically present in the community is key to creating credibility and connections
- Cultural politics and perceptions impact whether a particular provider is viewed as a positive resource for the community.
- Organizations increasingly employ staff who represents the cultural communities they seek to serve.
- The volume of information is overwhelming and makes it difficult to discern who to contact or how to get connected to services.
- There are gaps in knowledge about and communication between service providers concerning the services each provides.
- Sustainability is strengthened by acknowledging the assets that currently within the community; viewing and drawing on each other as assets; and building on and nurturing current and new relationships between community residents, employers, community organizations and local governments.

Outreach Strategies

- Recruiting low-income residents with strong connections in the communities to serve as "community navigators" is seen as a positive approach.
- **Jobs Central** can learn a great deal about how to structure outreach through the experience of the Trusted Advocates currently employed by the District Councils Collaborative. There may be potential to partner with the District Councils Collaborative to coordinate and manage the **Jobs Central** community navigators.
- Promise Neighborhood outreach staff will be door-knocking in Frogtown this summer and there is potential to partner with those workers.
- Outreach works best when you are providing clear and tangible information and tools and not asking for a lot of information from residents.
- Using incentives, such as Target gift cards, or similar, could motivate people to take the first step in creating a pathway to employment.
- The concept of navigators who have responsibility and accountability to follow up with residents on an ongoing basis is seen as a favorable model.

Neighborhood Partners/Sites

- The strategy to bring resources to neighborhood locations resonated with the organizations because often the residents are reluctant to seek help from an unfamiliar and formal institution, or don't realize that the institutions have resources available to help them.
- Rondo Library is one location that residents are comfortable going to, particularly for computer use.
- Many employment and training providers have computer labs and classrooms that could be utilized, including Lifetrack, CLUES, Goodwill, YWCA, etc.
- Some housing developments have resource and computer labs that could be utilized for Jobs Central, including Riverside Plaza, Skyline Towers, Glendale Residence.
- Seek out and partner with organizations that have existing relationships with families, who might be able to offer some complementary supports to Jobs central offerings.
- Providers in some communities have capacity limits that fall short of meeting the significant need in the neighborhood, and the limited local and federal financial support, particularly in concentrated immigrant communities, leaves some populations with greater gaps in resources.

WorkKeys/National Career Readiness Credential ("NCRC")

- Organizations that are familiar with WorkKeys are generally favorable about it and willing to utilize if it works for their clients. However, questions remain as to whether WorkKeys will help youth (18-24 year olds); those reading at or below a 6th grade level, which is typical of residents who have been trained in workplace English; people with disabilities, especially developmental disabilities.
- WorkKeys can be intimidating; some organizations have developed or use different assessments as part of their job counseling.
- In using WorkKeys it is important to develop messages about why it will help the job seeker build self-confidence and how they can use the credential in their job search even with employers who aren't familiar with it.

Reactions to and Suggestions for Jobs Central Project

- Community organizations and leaders with whom we met are generally receptive to the concept of **Jobs Central** and see value in trying to work at both the granular neighborhood level -- through such specific new strategies as the **Jobs Central** "community navigators" -- as well as see value in the potential of **Jobs Central** to be an avenue to amplify the system gaps and disconnects to policy-makers.
- There is a vast array of resources in the community but the resources are not always connected and accessing them is challenging, particularly for low-income job seekers. Creating both a handout and on-line customer-friendly guide (Job Connect website) to workforce and training resources available in the Corridor would be a positive outcome for **Jobs Central**.
- Resources and training for the "universal" job seeker (a job seeker that is not part of a specific program like MFIP, Dislocated Worker, etc.) are much more limited. **Jobs Central** can help knit together existing employment and training resources for these job seekers.
- Specific strategies that respond to the unique experience and needs of the four neighborhoods targeted by **Jobs Central** should be developed rather than anticipating that one strategy will work equally well across the communities.
- To be effective, navigators must have both coaching/mentoring skills as well as organizational skills. They will need training on both workforce resources and how to encourage residents to participate in Jobs Central programs through outreach, group facilitation, and networking, etc.
- Navigators must reflect the communities Jobs Central is seeking to serve.

- Build on the principle of meeting residents where they are today – meeting their immediate need. If they need a job, help get them a job, recognizing that foundational skills and support resources will need to be built and added along the path.

Based on the input received through meetings with community leaders, the ***Jobs Central*** project continues to evolve to address the needs of both unemployed and under-employed Corridor residents and the needs of Corridor employers, the two stakeholders who are at the center of the project. A healthy Corridor economy requires that residents have access to jobs and employment-related resources; gain the skills and experience needed to fulfill the evolving needs of businesses; and that Corridor businesses benefit from connecting to existing workforce resources; hiring and advancing local residents as valued employees; and investing in the economic well-being of the broader community.

Attachment 3

Jobs Central Project Team Members

Name	Organization
Mary Kay Bailey	Saint Paul Foundation
Denise Beigbeder	Ramsey County Housing Redevelopment Authority
Patricia Brady	Workforce Solutions
Mark Brinda	City of Minneapolis
Maura Brown	Alliance for Metropolitan Stability
Janet Guthrie*	Ramsey County
Wendy Helgeson**	Civic Source, Inc.
Mary Karcz	Ramsey County
Jonathan Sage Martinson	Central Corridor Funders Collaborative
Lisa Middag	Hennepin County
Ellen Muller	City of St Paul
Eric Muschler	McKnight Foundation
Bruce Nauth	Hennepin County
Nora Riemenschneider	Metropolitan Council
Mary Schmidt	MN Dept. Employment & Ec. Dev
Carrie Jo Short	Saint Paul Foundation
Avinash Viswanathan	Alliance for Metropolitan Stability
Ellen Watters**	Civic Source, Inc.
Jim Zentner	Workforce Solutions

*Project Manager

**Consultants under contract to the Project

Attachment 4

Agreement

Between Ramsey Regional Rail Authority and *District Councils Collaborative of Saint Paul and Minneapolis for Community Engagement Services*

This is an Agreement between Ramsey County Regional Railroad Authority, Minnesota, a political subdivision of the State of Minnesota, ("RCRRA") and *the District Councils Collaborative of Saint Paul and Minneapolis, 1080 University Avenue West, Saint Paul, Minnesota, a Minnesota nonprofit corporation* ("Contractor").

WHEREAS, The Jobs Central Project ("Jobs Central" or the "Project") has been funded under the Corridors of Opportunity regional initiative by a U.S. Department of Housing and Economic Development ("HUD") Sustainable Communities Initiative grant through the Metropolitan Council to Ramsey County Regional Railroad Authority ("RCRRA") for the purpose of better aligning working and economic development strategies in the Central Corridor ("Corridor"); and

WHEREAS, Jobs Central's activities are focused on low-income, unemployed and under-employed Corridor residents from a range of cultural and racial communities who have little or no connections to existing formal workforce resources; and

WHEREAS, a contract for community outreach and engagement to connect Corridor residents to workforce development resources in the community is desirable and beneficial for accomplishing the purposes and objectives of Jobs Central; and

WHEREAS, Jobs Central's geographic focus requires that for the purposes of Jobs Central as stated in these resolutions the contract for outreach and engagement to connect Corridor residents to workforce development resources in the community be with an organization experienced in working in the communities along the Corridor in both Saint Paul and Minneapolis; and

WHEREAS, the District Councils Collaborative of Saint Paul and Minneapolis ("Contractor") was formed to work with communities along the Corridor; and

WHEREAS, the Contractor has experience with performing community outreach and engagement in the Corridor that is consistent with Jobs Central's requirements; and

WHEREAS, the Contractor has a unique combination of geographic focus, experience and capacity necessary to meet Jobs Centrals' community outreach and engagement needs, and the Contractor has provided a scope of services and budget that meets Jobs Central's needs; and

Now, Therefore,

The RCRRA and the Contractor agree as follows:

1. Scope of Services

The Contractor shall provide the following services:

Contractor shall provide the services described below to, amongst other things, enable achievement of the primary objective of Jobs Central to identify unemployed or underemployed residents not currently receiving workforce development services, and connect at least 400 of these residents to existing workforce resources in order to improve their employability and access to jobs.

The Contractor shall facilitate community outreach and engagement services ("Project Services") to unemployed and under-employed residents in the following priority geographic areas identified by Jobs Central: Frogtown, Summit-University, and Skyline Tower in St. Paul; and Cedar-Riverside and Glendale Townhomes Community in Minneapolis. The minimum goals for connections to workforce services by geographic area are as follows:

Frogtown -	150 residents
Summit University and Skyline Tower -	150 residents
Cedar-Riverside -	75 residents
Glendale Townhomes -	25 residents

It is estimated that about one thousand individuals from the community will need to be contacted in order to result in sufficient numbers of individuals who connect to workforce services. Any significant variations from these goals must be based on an identifiable cause and be approved by the Project Manager (as identified in Section 2 below of this Agreement).

The Contractor will adapt the community engagement model currently being used in the Contractor's *Trusted Advocates* pilot for use for the Project Services. The model relies on individuals who have deep ties into a community and are perceived by community members as trustworthy, approachable and effective at building relationships and bridges between racial and cultural groups and governmental entities.

The Contractor will work closely with and provide consultation to Jobs Central Project staff in developing and implementing effective messaging, including outreach materials and other forms of written, oral and online communications.

The Contractor team (as described below in this Section 1) will assist in the process of building bridges between the community constituencies and government entities that can foster lasting relationships. The Contractor team will facilitate this process by brokering conversations, providing constructive feedback to the process, and using cultural competencies in fostering understanding and building trust among those participating in the process.

The Contractor will help inform Jobs Central about system barriers and will make recommendations to help improve services, processes, practices and policies of the formal systems that would lead to greater employment outcomes and systems effectiveness. The Contractor will recommend strategies and practices that can be sustained long-term in the community based on experience gained from providing the Project Services.

A. Project Services Staff.

In order to successfully provide Project Services, the Contractor will develop an experienced and diverse team to provide Project Services.

1. The Contractor will retain an experienced community member to serve as the Project Services Coordinator ("Coordinator") to coordinate and facilitate Project Services.

The Coordinator will have:

- a. Demonstrable ties into the communities in the Project's priority geographic areas.
- b. Life experiences and successes that offer knowledge and insights into the challenges facing those intended to benefit from the Jobs Central Project.
- c. Experience with career training and advancement.
- d. Experience building and supporting a team of diverse individuals.
- e. Experience with coordinating community outreach and engagement processes.

The Coordinator will be responsible for:

- a. Assisting with the Career Connector (as defined below) selection process.
- b. Coordinating the Career Connectors' work and ensuring a sufficient level of outreach and engagement services to meet the stated minimums.
- c. Supporting Career Connectors in the development of their individual work plans, leading in the review and approval of work plans, and monitoring work plan progress.
- d. Leading in planning and delivering Career Connector orientation and preparation.
- e. Facilitating Career Connector team meetings.
- f. Interacting with community organizations in the different neighborhoods.
- g. Participating in Project Services management meetings and suggest modifications to the engagement process when needed.
- h. Continuing and regular review of Career Connector work.
- i. Contributing to the development and delivery of Project outputs and evaluation as requested.

2. The Contractor will retain a diverse team of up to eight individuals to serve as career connectors to provide Project Services ("Career Connectors"). The Career Connectors will have:

- a. A demonstrable connection as a trustworthy and approachable member of one or more communities within the priority geographic areas.
- b. Personally experienced self-empowerment, career preparation and successful job seeking.

- c. Understanding of the importance of self-empowerment, education growth, and planning financially to maneuver through the uncertainties of employment in the current economic environment.
- d. An understanding of issues and concerns of low-income individuals experiencing long-term unemployment and under-employment.
- e. The ability to create a constructive frame of reference for individuals to see and acknowledge their own assets and skills.
- f. A passion for working on issues related to career training and advancement.
- g. The ability to guide and support to individuals as they forge a path to self-defined success and employment.
- h. The ability to collect and document conversations and information in both traditional and creative ways.

The Career Connectors will be responsible for:

- a. Initiating outreach strategies that are effective in connecting to their respective communities within the geographic areas identified by Jobs Central.
 - b. Facilitating and organizing meetings, community forums, and strategies for group participation.
 - c. Providing outreach and communications interpretation that foster connections between community residents and workforce services.
 - d. Engaging in connecting residents to workforce services, ensuring a sufficient level of outreach to meet the stated minimums.
 - e. Collecting and documenting conversations, resident participation, and information in both traditional and creative ways.
 - f. Assisting in identifying system barriers and recommending strategies to improve system services, practices and policies that lead to greater employment outcomes and systems effectiveness.
3. The Contractor will dedicate time from the Contractor's existing Communication and Outreach Coordinator position to serve as Project Services Manager ("Manager"). The Manager will be responsible for:
- a. Sharing and leveraging her insights and experience with the Trusted Advocate pilot to benefit the Project Services engagement process.
 - b. Guiding the development and implementation of the Project Services in collaboration with the Coordinator and Jobs Central, specifically in the process of selecting of the Career Connectors; the review of Career Connectors' work plan proposals and progress; the Career Connectors' orientation and preparation; and the general progress of the engagement process.
 - c. Serving as a Contractor liaison to Jobs Central Project staff and community-based organizations in the priority neighborhoods.
 - d. Assisting with development of a communications plan and implementing Contractor's related tasks.
 - e. Meeting regularly with the Career Connectors engagement team and other members of the Contractor's team.

- f. Contributing to the evaluation process of the Project Services.
- g. Overseeing internal administration of the Project Services.

B. Project Services Administration and Supervision.

The Contractor will provide services necessary to successfully administer and supervise the Project Services necessary to meet the Project objectives. These services will include, but are not limited to, the following:

1. Maintaining regular communications with the Project Manager, including participation in regularly scheduled meetings.
2. Working closely with Workforce Solutions and other workforce development agencies identified by Jobs Central.
3. Providing space for daily operations.
4. Identifying and arranging for meeting space as necessary to implement the Project Services.
5. Hiring and supervising the Project Services Coordinator to oversee the engagement and outreach work, and the Career Connectors to perform the outreach and engagement activities; and supervising all activities of the Contractor staff and any contract workers.
6. Designing and facilitating the orientation and preparation sessions for the Career Connectors.
7. Coordinating with Workforce Solutions and Jobs Central Project staff to ensure that the Project Services Coordinator and Career Connectors are trained in a timely and sufficient manner.
8. Monitoring the progress of the Project Services.
9. Notifying the Project Manager of any issues or problems with implementing the Project Services in a timely manner.
10. Recommending to the Project Manager adjustments to the Project as needed.
11. Providing information on systems barriers experienced through the course of carrying out the contracted services, and providing recommendations for change to the Project Manager.
12. Providing monthly written updates to the Project Manager in a form agreed to in the Work Plan.
13. Ensuring that all Project Services meet the financial and contractual requirements of HUD, Metropolitan Council, and RCRRA including as set forth on attached Exhibit A.

C. Work Plan.

The Contractor will work in coordination with Workforce Solutions staff and in consultation with Jobs Central Project Manager to develop within 15 days of the date that this Agreement is fully executed by the parties a joint work plan that incorporates the Project Services and the Workforce Solutions' workforce services. The final work plan will be adopted by agreement between the Contractor, Workforce Solutions staff liaison, and the Jobs Central Project Manager in writing, before work of the Project Services begins, with the exception of work necessary to the development of the work plan. The Jobs Central Project Manager retains final approval of the plan.

The work plan will incorporate the following information:

1. The specific roles and responsibilities of the Contractor, Workforce Solutions and the Jobs Central Project Manager in carrying out the work plan.
2. The solicitation and selection processes of securing the Career Connectors.
3. The curriculum and process for orientation and training of the Career Connectors.
4. The components to be incorporated in the Career Connectors' individual work plans.
5. A visual and narrative description of the process flow and connections between the residents and workforce services, including identifying the roles of the Career Connectors and Workforce Solutions staff and vendors.
6. Agreed-upon content and format of the monthly written reports.
7. The level of participation in various meetings relevant to development, implementation and wrap-up of the Project Services.
8. A shared definition of indicators of personal advancement in employability and access to jobs.
9. An agreed-upon set of Contractor outcomes and evaluation criteria.

D. Final Report.

The Contractor will provide a final report that summarizes the activities undertaken, the final statement of progress toward meeting the goals for making connections, the findings regarding community connections with workforce development services, the identification of system barriers, and any recommendations for future activities.

2. RCRRA Roles and Responsibilities

The RCRRA shall:

- A. Provide a Jobs Central Project Manager for the Contractor who will oversee and manage this Agreement and be the primary point of contact. The Project Manager is
- Janet Guthrie, Senior Policy Analyst
County Manager's Office - 250 Court House
15 Kellogg Blvd. West
St. Paul, MN 55102
- B. The Project Manager will:
1. Maintain timely communication with the Contractor.
 2. Consult with Contractor and assist as needed in development of the proposed Work Plan and, with Contractor and Workforce Solutions, approve the work plan in a timely manner.
 3. Ensure the provision of training by Workforce Solutions staff for the Coordinator and Community Connectors on workforce-related information appropriate for their activities
 4. Arrange for the workforce development services to be provided to the community residents through a Memorandum of Understanding with Workforce Solutions, Ramsey County's employment and training department. Workforce Solutions will provide two staff members who will work in cooperation with the Contractor to develop a joint work plan

and to oversee the workforce development services that will be provided under contract through Workforce Solutions. The Jobs Central Project Manager will oversee and manage the Memorandum of Understanding with Workforce Solutions and be the primary point of contact.

5. Consult on and review materials that will be used in the outreach and engagement process.
6. Provide feedback to the Contractor if any issues arise regarding the services being provided under this contract.
7. Respond in a timely manner to questions, concerns and recommendations by Contractor.
8. Inform the Contractor of any relevant changes in federal, Metropolitan Council or County reporting, financial or other requirements that must be observed.
9. Process invoices in a timely manner.
10. Make adjustments to the work plan as needed to meet the Project expectations, with joint approval from Contractor and Workforce Solutions. Mitigate discrepancies or disagreements in work plan adjustments.
11. Make adjustments within line items in budget (Exhibit B) as needed to meet Project expectations, with joint approval of the Contractor.
12. Monitor the budget and status of the Project Services and inform the Contractor if there are concerns about the timing of activities.

3. Time

The Project Services will be provided between September 2012 and November 15, 2013 according to the following schedule. No extension of the time period beyond November 15, 2013 will be accepted:

- A. September 2012 - October 2012:
 1. Project start-up.
 2. Contract with Coordinator.
 3. Finalize and submit work plan (Section 1.C).
 4. Complete Career Connectors selection process.
 5. Orientation and preparation sessions finalized.
 6. Project launch in the community.
- B. October 2012 – August 2013.
 1. Outreach and engagement implementation.
- C. August 2013 – November 15, 2013.
 1. Finalize engagement process wrap-up.
 2. Community celebration event.
 3. Final report submitted to Project Manager.

4. Cost/Payment

- A. The RCRRA shall pay the Contractor up to a total not to exceed \$109,950 on a reimbursement basis upon receipt of monthly detailed invoice of expenses incurred based on the approved budget (Exhibit B). The format and detail of these

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- invoices shall be agreed upon by the Contractor and the Jobs Central Project Manager. Payment will be made within 35 days of receipt of a detailed invoice.
- B. No increase to the contracted amount will be considered.
 - C. Reimbursement of expenses, if included, will be made consistent with RCRRA policies. The RCRRA will reimburse only the actual cost of out of pocket expenses. Mileage, if provided, will be reimbursed at the IRS rate in effect at the time of travel.
 - D. \$15,000 will be provided to the Contractor upon execution of this Agreement in advance, in recognition of the Contractor's investment in time and expenses for Project Services implementation as set forth in Section 1 above of this Agreement. Contractor will provide sufficient documentation verifying expenses and accounting for use of the advance funds, retroactively, within the Contract Budget attached herein as Exhibit B.
 - E. Interest accrual and disputes regarding payment shall be governed by the provisions of Minnesota Statutes Section 471.425.
 - F. The Contractor must sign and return to the RCRRA the Certification form attached to and made a part of this Agreement as Exhibit C.

5. Independent Contractor

It is agreed that nothing contained in this 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 Contractor as the employee of the RCRRA for any purpose or in any manner whatsoever. The Contractor is an independent contractor and neither it, its employees, agents or representatives are employees of the RCRRA. The Contractor shall have the sole authority for the selection, direction, employment, supervision, compensation, promotion and discharge of its employees, agents and representatives. From any amounts due the Contractor, 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 Contractor.

6. Indemnification

The Contractor shall indemnify, hold harmless and defend the RCRRA and Ramsey County, and their officials, employees, and agents from any and all liability, loss, costs, damages, expenses, claims or actions, including attorney's fees, which RCRRA or Ramsey County, their officials, employees, and agents may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the Contractor, its employees, or agents in the execution, performance, or failure to adequately perform the Contractor's obligations pursuant to this Agreement.

7. Insurance

- A. The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims which may arise out of, or result from, the Contractor's operations under this Agreement, whether such operations are by the Contractor or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable.

- B. The Contractor shall secure the following coverages and comply with all provisions noted. Certificates of Insurance shall be issued evidencing such coverage to the RCRRA and Ramsey County throughout the term of this Agreement.
 - B.1 Commercial General Liability Insurance
 - B.1.1 \$ 1,000,000 per occurrence
\$ 2,000,000 general aggregate
\$ 2,000,000 products/completed operations total limit
\$ 1,000,000 personal injury and advertising liability
 - B.1.2 All policies shall be written on an occurrence basis using ISO form CG 00 01 or the equivalent.
 - B.1.3 RCRRA 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 operations of the Contractor, using ISO endorsement form CG 20 26 or the equivalent.
 - B.2 Workers' Compensation and Employer's Liability
 - b.2.1 Workers' Compensation as required by Minnesota Statutes
 - b.2.2 Employer's Liability limits:
\$500,000/\$500,000/\$500,000
- C. If the Contractor is notified by its insurer of cancellation or the Contractor is aware of any lapse of coverage or material change in the coverage required under this Agreement, the Contractor shall provide RCRRA with such notice prior to the effective date of loss of coverage or material change in coverage.
- D. The above sub-paragraphs establish minimum insurance requirements, and it is the sole responsibility of the Contractor to purchase and maintain additional insurance that may be necessary in connection with this Agreement.
- E. Certificate(s) of Insurance must indicate if the policy is issued pursuant to these requirements. The Contractor shall not commence work under this Agreement until the Contractor has obtained the required insurance and filed an acceptable Certificate of Insurance with the RCRRA. Copies of insurance policies shall be submitted to the RCRRA upon request.
- F. Nothing in this Agreement shall constitute a waiver by the RCRRA or Ramsey County of any statutory or common law immunities, limits, or exceptions on liability.
- G. Certificates shall specifically indicate if the policy is written with an admitted or non-admitted carrier. Best's Rating for the insurer shall be noted on the Certificate, and shall not be less than an A.

8. Non-Assignability

The Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the same, whether by subcontract, assignment or novation, without the prior written consent of the RCRRA.

9. Unavailability of Funding

The purchase of goods or services from the Contractor under this Agreement is subject to the availability and provision of funding from the United States, the State of Minnesota, or other funding sources, and the appropriation of funds from the RCRRA. The RCRRA may immediately terminate this Agreement if the funding for the contracted goods and services is no longer available or is not appropriated by the RCRRA. Upon receipt of the RCRRA's notice of termination of the Agreement the Contractor shall take all actions necessary to discontinue further commitments of funds to the Agreement. Termination shall be treated as termination without cause and will not result in any penalty or expense to the RCRRA.

10. Non-Conforming Services

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

11. Equal Employment Opportunity

The Contractor 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 RCRRA, the Contractor shall furnish a written affirmative action plan.

12. Respectful Workplace and Violence Prevention

The Contractor shall make all reasonable efforts to ensure that the Contractor's employees, officials and subcontractors do not engage in violence while performing under this Agreement. Violence, as defined in the Ramsey County Respectful Workplace and Violence Prevention Policy, means 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.

13. Subcontractor Payment

The Contractor shall pay any subcontractor within ten days of the Contractor's receipt of payment from the RCRRA for undisputed services provided by the subcontractor. The Contractor 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 Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from the Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

14. Setoff

Notwithstanding any provision of this Agreement to the contrary, the Contractor shall not be relieved of liability to the RCRRA for damages sustained by the RCRRA by virtue of any breach of this Agreement by the Contractor. The RCRRA may withhold any payment to the Contractor for the purpose of setoff until such time as the exact amount of damages due the RCRRA from the Contractor is determined.

15. Data Practices

All data collected, created, received, maintained or disseminated for any purpose in the course of the Contractor's performance of this 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.

16. Compliance With Applicable Law

The Contractor 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 Contractor's performance of the provisions of this Agreement. It shall be the obligation of the Contractor 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.

17. Audit

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

18. Termination

A. With Cause

If either party shall default in the performance of any of its respective duties and obligations hereunder, the party not in default may terminate this Agreement upon: (a) ten (10) days' written notice to the defaulting party in the event of a monetary default; or (b) thirty (30) days written notice to the defaulting party in the event of a non-monetary default, unless the default is cured within said applicable time period; or in the case of a non-monetary default, if the nature of such default will not permit it to be cured within said thirty (30) day period, the defaulting party commences to cure such default within such thirty (30) day period and thereafter proceeds to complete the same with reasonable diligence. In the event that either party exercises its right of suspension or termination under this Paragraph, it shall submit written notice to the other party, specifying the extent of such suspension or termination under this Paragraph, the reasons

therefore, and the date upon which such suspension or termination becomes effective. Upon receipt of such notice, the receiving party shall take all actions necessary to discontinue further commitments of funds to the extent that they relate to the suspended or terminated portions of this Agreement.

B. Without Cause

Either party may terminate this Agreement without cause and for any reason whatsoever upon giving at least thirty (30) days' written notice thereof to the other party. In such event, the Contractor shall be entitled to receive compensation for the services provided in a satisfactory manner up to and including the effective date of termination.

19. Conflict of Interest

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

20. Waste Reduction

The Contractor 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.

21. Alteration

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

22. HIPAA Compliance

The Contractor 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.

23. Interpretation of Agreement; Venue

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

24. Contractor Certification Regarding Debarment, Suspension, and Responsibility (If applicable)

Federal Regulation 45 CFR 92.35 prohibits the RCRRA from purchasing goods or services with federal money from vendors who have been suspended or debarred by the federal government.

By signing this Agreement, the Contractor certifies that it and its principals:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transacting business by or with any federal, state or local governmental department or agency; and
- B. Have not within a three-year period preceding this Agreement:
 - 1. 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;
 - 2. violated any federal or state antitrust statutes; or
 - 3. committed embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; and
- C. Are not presently indicted or otherwise criminally or civilly charged by a governmental entity for:
 - 1. commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction;
 - 2. violating any federal or state antitrust statutes; or
 - 3. committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; and
- D. Have not had one or more public transactions terminated with in the preceding three years for cause or default; and
- E. Shall not knowingly enter into any transaction with a subcontractor who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and that they will require any subcontractor that receives more than \$100,000 to make a similar certification as set forth herein; and
- F. Are not aware of any information and possess no knowledge that any subcontractor(s) that will perform work pursuant to this Agreement are in violation of any of the certifications set forth above; and
- G. Shall immediately give written notice to the RCRRA should Contractor come under investigation for allegations of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local government) transaction; violating any federal or state antitrust statutes; or

committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

25. Lobbying

For all contracts involving over \$100,000 in federal funds, the Contractor must sign the Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements, attached hereto and made a part of this Agreement as **Exhibit C**.

26. Entire Agreement

This Agreement, including the attached Exhibits, is complete and supersedes all oral agreements and negotiations between the parties as well as any previous agreements presently in effect between the parties relating to the service identified herein.

WHEREFORE, this Agreement is duly executed on the last date written below.

**RAMSEY COUNTY
REGIONAL RAILROAD AUTHORITY**

Jim McDonough, Chair

Date: _____

Approval recommended:

Timothy A. Mayasich, Director

Approved as to form and insurance:

Assistant County Attorney

**DISTRICT COUNCILS
COLLABORATIVE OF SAINT PAUL
AND MINNEAPOLIS**

By: _____
Carol Swenson, Executive Director

Date: _____

Exhibit A: HUD Cooperative Agreement Provisions

Exhibit B: Contracted Services Budget

Exhibit C: Contractor Certification Regarding Lobbying for Contracts, Grants, Loans and Cooperative Agreements

Exhibit A

U.S. Department of Housing and Urban Development
Office of Sustainable Housing And Communities

COOPERATIVE AGREEMENT PROVISIONS

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I. GENERAL

Overview of Award Implementation

This cooperative agreement/grant (also referred to as *Agreement*) is between the Grantee (*Recipient*) identified in Block 7 of the form HUD-1044, and the U.S. Department of Housing and Urban Development. The award agreement consists of the form HUD-1044, any special conditions, and these Cooperative Agreement Terms and Conditions.

In signing this *Agreement*, the Grantee agrees to comply with all the requirements and conditions contained herein.

The provisions of the Notice of Funding Availability (NOFA) are hereby incorporated into this *Agreement*.

The Grantee's rights under this *Agreement* may not be assigned without the prior written approval of HUD.

The Grantee shall complete and submit a revised management and work plan with Logic Model, Deliverables/Outcomes and Budget within 60 calendar days after the effective date of the grant. These revisions shall update the general/basic plan submitted with the proposal and include any changes to the proposed work plan, budget, performance measures and deliverables, negotiated between HUD and the grantee. These revisions should be developed according to the instructions provided by the HUD Government Technical Representative identified on the form HUD-1044. Should you not address these specific issues, your grant may be terminated on the basis of failure to conclude negotiations or to provide HUD with requested information, in accordance with the General Section of the NOFA for which you applied.

Purpose

The purpose of this *Agreement* is as stated in the "Purpose of the Program" section of the NOFA.

Definitions

"Cooperative Agreement" means an agreement in which the Federal Government provides funding authorized by public statute where the government plays a substantial role in assisting the funding recipient.

"Equipment" means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

"Grant/Cooperative Officer" (Grant Officer) means the HUD individual who is responsible for processing and executing grant award, change in key personnel, change of scope, budget transfers, change of period of performance, and other administrative changes that would require a modification to the agreement. This term also refers to designated HUD Officials authorized to execute and/or administer this grant.

"Government Technical Representative (GTR)" means the HUD individual who is responsible for the technical administration of the grant, the evaluation of performance under the grant, the acceptance of technical reports or projects, and other such specific responsibilities as may be stipulated in the grant.

"Government Technical Monitor (GTM)" means the individual responsible for assisting a Government Technical Representative (GTR) in the latter's performance of his/her duties. The GTM is also the responsible individual that will comply with the Office of Sustainable Housing and Communities devolution of authority under our Continuity of Operations Plan (COOP). Should the National Capital Region become non-operational due to emergency conditions, the approval of vouchers and the authority to pay vouchers will transfer to the GTM until such time as the designation is lifted. The Government Technical Representative (GTR) will continue to be the point of contact for day-to-day management issues and responsibilities described above. In a state of emergency, HUD reserves the right to designate a GTR for COOP purposes.

"Grantee" as used herein refers to the recipient of this cooperative agreement.

"NOFA" means the Notice of Funding Availability, which announced the availability of funding for this grant.

"OSHC" means the HUD Office of Sustainable Housing and Communities, or its successor Office, if any.

"Publication" includes: (a) any document containing information for public consumption; or (b) the act of, or any act which may result in, disclosing information to the public.

"Recipient" means any entity other than an individual that received grant funds in the form of a grant, cooperative agreement or loan directly from the Federal government.

"Subaward" means:

1. A legal instrument to provide support for the performance of any portion of the substantive project or program for which the recipient received this award and that:
 - a. The recipient awards to an eligible sub-recipient; or
 - b. The sub-recipient at one tier awards to a sub-recipient at the next lower tier.
2. The term does not include the recipient's procurement of property and services needed to carry out the project or program (see, generally, § 210 of the

attachment to OMB Circular A-133 (2 CFR Part 180), "Audits of States, Local Governments, and Non-Profit Organizations").

3. A subaward may be provided through any legal agreement, including an agreement that the recipient or a sub-recipient considers a contract.

"Sub-recipient" means a non-Federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary to such a program. The sub-recipient may also be a recipient of other Federal awards directly from the Federal awarding agency. Guidance on distinguishing between a sub-recipient and a vendor is provided in § 2.10 of OMB Circular A-133 (2 CFR Part 180).

"Total Instrument Amount" is the amount under line item 14 of the HUD Form-1044 (Total Instrument Amount).

"Work Plan" refers to the Grantee's plan for addressing a specific service delivery need, and consists of designated work activities including tasks and subtasks as required by the program office; a timeline for completing the work; performance measures; outputs and outcomes identified to achieve the performance measures/goals; budget; and resources designated to complete the work.

II. PROGRAM REQUIREMENTS

Allowable Costs

This is a cost reimbursement award; the Grantee shall be reimbursed for certain costs, as described below, incurred in the performance of work in an amount not to exceed the obligated amount shown in block 15 on the Assistance Award Form (form HUD-1044). In the event the Grantee incurs costs in excess of the prescribed amount, the excess shall be borne entirely by the Grantee.

HUD shall reimburse the Grantee for costs incurred in the performance of this award which are determined by the GTR and the Grant Officer to be allowable, allocable, and reasonable in accordance with applicable Federal cost principles as follows:

Cost Principles for State, Local, and Indian Tribal Governments	OMB Circular A-87	Relocated to 2 CFR, Part 225; http://www.whitehouse.gov/omb/circulars/a087/a87_2004.html
Cost Principles for Non-profit Organizations	OMB Circular A-122	Relocated to 2 CFR, Part 230; http://www.whitehouse.gov/omb/fedreg/2005/083105_a122.pdf
Cost Principles for Educational Institutions	OMB Circular A-21	Relocated to 2 CFR, Part 220; http://www.whitehouse.gov/omb/fedreg/2005/083105_a21.pdf
Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations	OMB Circular A-110	Relocated to 2 CFR Part 215; http://www.whitehouse.gov/omb/fedreg/2005/083105_a110.pdf
Audits of States, Local Governments, and Non-Profit Organizations	OMB Circular A-133	Relocated to 2 CFR Part 180; http://www.whitehouse.gov/omb/fedreg/2005/083105_a133.pdf
Cost Principles for Commercial/For-profits	Federal Acquisition Regulations at 48 CFR Part 31.2	http://www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=200948

Direct Costs are the allocable portion of allowable costs incurred directly for the purposes of the grant. Detailed explanations of direct costs are provided in applicable OMB Circulars (A-21 (2 CFR Part 220), Cost Principles for Educational Institutions, A-87 (2 CFR Part 225), Cost Principles for State, Local, and Indian Tribal Governments, or A-122 (2 CFR Part 230), Cost Principles for Nonprofit Organizations, as applicable) that can be accessed at the White House website, www.whitehouse.gov/omb/circulars_default

Administrative Requirements

For non-profits, awards will be governed by:

- 24 CFR Part 84, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
<http://ecfr.poaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=a0f201e9fd6fec5af8e07d6e0eedf957&rgn=div5&view=text&node=24:1.1.1.38&idno=24>
- OMB Circular A-133 (2 CFR Part 180), Audits of States, Local Governments, and Non-Profit Organizations; and
- These grant provisions.

For State and local governments, awards will be governed by:

- 24 CFR Part 85, Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments
<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=a0t201e9fd6fec5af8e07d6e0eedf957&rgn=div5&view=text&node=24:1.1.1.39&idno=24>
- OMB Circular A-133 (2 CFR Part 180), Audits of States, Local Governments, and Non-Profit Organizations; and
- These grant provisions.

Advance Payment By Treasury Check Or Electronic Funds Transfer

Advance payments by Treasury check or electronic funds transfer are hereby authorized under this grant. A Grantee that is subject to existing State program accreditation requirements may request an advance payment in writing, if applicable. HUD may provide to the Grantee a one-time cash advance that shall not exceed 10 percent of the grant amount, and shall be limited to the minimum amount needed for the actual, immediate cash requirements of the Grantee in carrying out the start up activities of this agreement and as agreed to by the Grant Officer. Neither these HUD funds nor non-HUD funds may be used for conducting interventions, remediation, rehabilitation, renovation or other activities that would physically alter any structure or property in any way. Refer to 24 CFR 58.34(a) for a list of exempt activities.

Amendments

This grant may be modified at any time by written amendment. Amendments, which reflect the rights and obligations of either party, shall be executed by both HUD (the Grant Officer) and the Grantee. Administrative amendments, such as changes in appropriation data, may be issued unilaterally by the Grant Officer.

Amount of Cost Share (Estimated Cost And Payment-Leveraging) (See Block 14 of form HUD-1044)

The estimated cost for the performance of this grant is the "Total Instrument Amount".

The Grantee shall be reimbursed by HUD for costs incurred in the performance of this grant. HUD shall not be obligated to reimburse the Grantee in excess of the "Total HUD Amount". HUD reserves the right to withhold five-percent (5%) of the Federal grant amount pending the receipt and approval of a final progress report. See clause entitled "Final Report" for more information. The proposed contribution to supplement HUD funds is the "Recipient Amount." The Grantee agrees to bear without reimbursement by HUD the "Recipient Amount" of the total costs. The Grantee is not obligated to contribute more than the "Recipient Amount". However, the Grantee shall be solely responsible for any costs in excess of the estimated cost of the "Total Instrument Amount".

The Grantee must satisfy all leveraging requirements in the NOFA. If the Grantee's actual leveraging contribution is less than "**Recipient Amount**" under Block 14 of the HUD 1044, the Government reserves the right to negotiate new line items and/or amounts to satisfy the Grantee's leveraged funds requirement, or to reduce the Government's share proportionally. The Grantee shall notify the Government at any time it believes it will not meet its leveraged funds requirement by the completion of the grant. If the Grantee exceeds the leveraged amount, there will be no impact on the Federal share. HUD reserves the right to withhold payments if leveraged funds are not spent.

Any funds requested by the Grantee shall be requested in accordance with the clause entitled, "Estimated Cost and Payment- Line Of Credit Control System (LOCCS)."

HUD reserves the right to withhold payment if leveraged resources are not spent.

Budget

The Grantee shall incur costs in conformance with the original or negotiated budget, presented with the proposal for this grant. The Grantee shall not commingle any funds computed under this grant with any other existing or future operating accounts held by the Grantee.

If the Grantee has been contacted to submit documents to support the application that were not received prior to the execution of this grant, the Grantee will not be allowed to draw down funds in excess of 10% of the federal amount, until such time that the requirements have been met. HUD reserves the right to terminate an award if the required documents are not provided within 1 month from the date the written request was made.

Standard Form 425, Federal Financial Report, detailing leveraged funds or in-kind contributions shall be submitted on a quarterly basis. As part of the closeout process a final narrative and a final Standard Form 425 detailing the progress made in achieving the purpose of the grant and adequate documentation of the total federal funds expended in support of the activities to achieve this purpose are due to the GTR 30 days prior to the end of the period of performance (See clause entitled "Closeout").

The Federal Financial Report (Standard Form 425) shall be submitted on a quarterly basis and is due 10 days after the end of each quarter.

Central Contractor Registration (CCR)

Recipients and their first-tier sub-recipients must maintain current registrations in the Central Contractor Registration (www.ccr.gov) at all times during which they have active federal awards.

Certifications and Assurances

The certifications and assurances submitted in the Grantee's application are hereby incorporated into this agreement. They include:

- Standard Form 424 or HUD 424, Application for Federal Assistance
- Certification and Disclosure Form Regarding Lobbying (SF-LLL)
- Applicant/Recipient Disclosure Update Report (HUD-2880)
- Certification Regarding Parties Excluded From Procurements
- Certification Prohibiting Excessive Force Against Non-Violent Civil Rights Demonstrators
- Certification/Disclosure Regarding federal Debt
- Certification Regarding a Drug-Free Workplace
- Codes of Conduct and Conflict of Interest

A grantee must notify the GTR of any changes in the status or information on the above items.

Changes

In accordance with 24 CFR 85.30 or 84.25, as applicable, Grantees or sub-grantees must obtain the prior approval of the awarding agency whenever any programmatic changes are anticipated, including but not limited to the following:

- a) Any revision of the scope or objectives of the project (regardless of whether there is an associated budget revision requiring prior approval).
- b) Budget revisions that are 10% or more of the cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed 10% of the current total approved budget, whenever the awarding agency's share exceeds \$100,000.
- c) Changes in key persons in cases where specified in an application or a grant award. In research projects, a change in the project director or principal investigator shall always require approval unless waived by the awarding agency.
- d) Under non-construction projects, contracting out, subgranting (if authorized by law) or otherwise obtaining the services of a third party to perform activities, which are central to the purposes of the award.

Closeout

The Grantee shall provide the Grant Officer with closeout documentation 30 days prior to the end of the performance period, consisting of the following five elements:

- Narrative Final Report summarizing activities conducted under the award, including significant outcomes resulting from the activities and problems encountered during the performance period;
- Federal Financial Report (SF-425) of the total Federal Funds expended;

- Completed Property Statement;
- Completed Inventions, Patents, and Copyright Statement; and
- Completed Closeout Certification.
- Final Logic Model Report.

HUD will notify the Grantee in writing when the grant is closed. The Grantee has three areas of continuing responsibility after closeout of the grant:

- Records and materials must be kept in a safe place and be accessible to auditors and other government officials for three years after the grantee and all subgrantees/subcontractors make final payments and all other pending matters are closed. (If the grant is covered by 24 CFR Part 84, see related record retention requirements in 24 CFR 84.85(c)(2).) This requirement also extends to all subcontracts the Grantee has executed.
- Accountability for property continues as long as the Grantee holds the property, or for the period of time established by the agreement. Disposal of property must be in accordance with the rules established in the Property Management Standards referred to in the award. Program income, including royalties, must be used to support eligible activities.
- Notification to the Grant Officer if, at any time during the three-year period after project completion, the Grantee organization is discontinued or changes location. The Grant Officer should be notified immediately of the new address or the address of the party retaining all records.

Collection Of Data

Collection of data from ten or more respondents and sponsored by HUD shall be subject to the Paperwork Reduction Act (44 U.S.C. 3501-3520). If a survey instrument for a collection of data sponsored by HUD is proposed, it will be subject to review and approval by the Office of Management and Budget (OMB). Such review and approval must be obtained prior to the use of the survey instrument. Also, a time element is involved here, which may considerably lengthen the time required for completion of the project proposed. Careful consideration should be given to any proposal, which requires the use of a survey or other information collection sponsored by HUD. The collection of data is deemed to be sponsored by HUD only under the following conditions (5 CFR 1320.3):

- a) The Grantee is conducting the collection of information at the specific request of HUD; or
- b) The terms and conditions of the grant require specific approval by HUD of the collection of information or collection procedures. Note that if the Grantee decides on its own to collect information and it does not need HUD approval to do so, then HUD is not the "sponsor" of the information collection.

Compliance with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282) (Transparency Act)

Applicants receiving an award from HUD should be aware of the requirements of the Transparency Act. The Transparency Act requires the establishment of a central website that makes information available to the public regarding entities receiving federal financial assistance, by not later than January 1, 2008. In fulfillment of the requirements of the Act, OMB launched <http://www.USAspending.gov> in December 2007. The website makes information available to the public on the direct awards made by the federal government. The Transparency Act also requires, beginning not later than January 2009, that data on subawards be made available on the same website.

In anticipation of the implementation of this requirement, HUD is placing awardees of its FY2010 competitive funding on notice of these requirements and that, once implemented, grantees will be required to report their subaward data to HUD or a central federal database. The only exceptions to this requirement under the Transparency Act are:

- 1) Federal transactions below \$25,000;
- 2) Credit card transactions prior to October 1, 2008;
- 3) Awards to entities that demonstrate to the Director of OMB that the gross income of such entity from all sources did not exceed \$300,000 in the previous tax year of such entity; and
- 4) Awards to individuals. Guidance for receiving an exception under item (3) above has not been finalized by OMB.

HUD is responsible for placing award information for direct grantees on the government website. The reporting of subaward data is the responsibility of the grantee. Grantees should be aware that the law requires the information provided on the federal website to include the following elements related to all subaward transactions, except as noted above:

- 1) The name of the entity receiving the award;
- 2) The amount of the award;
- 3) Information on the award, including the transaction type, funding agency, the North American Industry Classification System (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number (where applicable), program source, and an award title descriptive of the purpose of each funding action;
- 4) The location of the entity receiving the award and primary location of performance under the award, including the city, state, congressional district, and country;
- 5) A unique identifier of the entity receiving the award and of the parent entity of the recipient (the DUNS number), should the entity be owned by another entity; and
- 6) Any other relevant information specified by OMB.

HUD expects OMB to issue further guidance on subaward reporting. Based on preliminary input from the various federal agencies, applicants should be aware that consideration is being given to requiring the disclosure of additional data elements to help track

the flow of funding from the original federal award. Such data elements under consideration include the tier at which the subaward was made, the federal award number issued to the direct awardee, the dollar amount of the federal award emanating from the direct award going to the subawardee, as well as the total subaward amount, which could include funds from other sources, and registration in the CCR. Additional information regarding these requirements when determined will be provided when available. Subawardees and direct awardees should always use an Employer Identification Number (EIN) when registering with CCR, not a Social Security Number, to ensure personal information and data is protected. To obtain an EIN, go to <http://search.irs.gov/web/query.html?col=allirs&charset=utf-8&qp=&q=-Wct%3A%22Internal+Revenue+Manual%22&qc=&qm=O&rf=O&oq=&qt=form+SS4>.

To obtain form SS-4, Application for Employer Identification Number, and if you need assistance in completing the SS-4, you can contact the IRS helpline at 800-829-4933. The helpline is open from 7 a.m. to 10 p.m. your local time (Alaska and Hawaii follow Pacific Time), Monday to Friday, except federal holidays.

Conduct of Work

During the effective period of this grant, the GTR and/or the GTM identified in Block 9 of the HUD-1044 shall be responsible for monitoring the technical effort of the Grantee, unless the Grantee is notified in writing by the Grant Officer of a replacement.

Only the Grant Officer has the authority to authorize deviations from this grant, including deviations from the Work Plan. In the event the Grantee does deviate without written approval of the Grant Officer, such deviation shall be at the risk of, and any costs related thereto shall be borne by, the Grantee.

Confidentiality

The service provider (e.g., the Grantee and any subgrantees, subcontractors or vendors) must maintain confidential files on individual program beneficiaries served. Recipient staff must keep paper files in a locked filing cabinet and protect all electronic files related to individual beneficiaries with a personal password.

The service providers shall maintain primary access to individual beneficiary files. Other project management staff may have access to these files only if they contain a "release of information" consent form signed by the individual beneficiary. A release of information form must clearly indicate which parties may have access to an individual beneficiary's file. Such parties might include the management staff and HUD staff. Recipient staff must only share individual beneficiary files with those parties listed on the signed form. If an individual beneficiary has not signed the consent form the parties listed may not read that individual beneficiary's file.

These categories serve as guidelines to recipient staff and management staff. The recipient must determine if the individual beneficiary's confidential information will significantly affect the safety and security of that individual or the recipient organization itself.

Consortia Agreement

This provision pertains to agreements awarded to a consortium or consortia. The designated Lead Agency is the official funding recipient. As such, the Lead Agency performs functions including the following:

- Maintaining the LOCCS account,
- Drawing down and dispersing grant funds,
- Paying related administrative expenses,
- Monitoring the work of the consortia members, and
- Submitting all required reports to the OSHC staff.

All recipients and sub-recipients in an OSHC grant program Consortium must enter into a memorandum of understanding that binds them to this award. By doing so, all entities are legally bound to comply with all the terms and conditions of the award. Should one or more parties not comply with the terms of this agreement at any time, and not be replaced by the Lead Agency, the portion of that entity's allotted award will be dropped from the award agreement. Non-lead agencies, in complying with this award agreement, are responsible for monitoring the time and work of the service providers at their site and for assuring that the Lead Agency has the proper information it needs to submit required reports to HUD and to maintain the award's LOCCS account.

Contact Information Updates

The Grantee shall inform the Grant Officer and GTR of any changes in contact information, including the organization's name, address, telephone, e-mail, and key personnel.

Copyrights

HUD reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for Federal government purposes: (a) the copyright in any work developed under this award, sub-award, or contract awarded under this grant; and (b) any rights of copyright to which a Grantee or sub-grantee or a contractor purchases ownership with award funds.

Default and Disputes

The Grantee is in default if one or more of the following occurs:

1. Any use of award agreement funds for a purpose other than as authorized by this Agreement;

2. Any material noncompliance with Federal, State, or local laws or regulations as determined by HUD;
3. Any other material breach of this award agreement, or
4. Any misrepresentation in the application submissions which, if known to HUD, would have resulted in this award not being provided.
5. Failure to meet any reporting requirement.

If HUD determines preliminarily that the recipient is in default as described in items 1-5, above, HUD will give the recipient notice of this determination and the corrective or remedial action proposed by HUD. The recipient shall have an opportunity to demonstrate, within the time prescribed by HUD (not to exceed 30 days from the date of the notice), and on the basis of facts and data, that it is not in default, or that the proposed corrective or remedial action is inappropriate, before HUD implements the corrective or remedial action.

Where HUD determines that corrective or remedial actions by the recipient have not been undertaken as instructed, or will not be effective to correct the default and to prevent further default, HUD may take the following additional corrective and remedial actions under this award agreement:

1. Reduce the award in the amount affected by the default.
2. Take action against the recipient under 24 CFR Part 24 and Executive Order 12549 with respect to future HUD or Federal grant awards.
3. Demand repayment of all award amounts.
4. Initiate litigation or other legal proceedings designed to require compliance with the statute, regulations, any terms or conditions of this award agreement, or other pertinent authorities.
5. Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee.
6. Withhold further payments.
7. Take any other remedial action legally available.

During performance of the grant, disagreements may arise between the Grantee and the Grant Officer on various issues. If a dispute concerning a question of fact arises, the Grant Officer shall prepare a final decision, taking into account all facts and documentation presented. The decision shall be mailed to the Grantee. The Grantee may appeal the decision in writing within thirty (30) days to the Deputy Secretary of HUD, or his or her designated representative, the Director, Office of Sustainable Housing and Communities.

Failure to comply with the requirements established in the award and these provisions, including failure to submit reports on time and in accordance with the requirements contained in these provisions, may result in HUD taking action to limit access to program funds. Actions by HUD may include, but are not limited to: requiring that reports and financial statements be submitted to the Grant Officer/GTR for approval before drawing down any funds; removing the Grantee from the eLOCCS; suspending the ability to incur costs or draw funds; and/or suspending or terminating the Grant for non-performance.

HUD may, on reasonable notice to the Grantee, temporarily suspend the award and withhold further payments pending corrective action by the Grantee. The award may be terminated in whole or in part before the end of the performance period for cause when the Grantee has failed to comply with the terms, conditions, standards, or provisions of this award. The award may be terminated for convenience when both parties agree that the continuation of the award would not produce beneficial results.

Deliverable Products

During the performance period, the recipient is required to submit to the GTR Official Work Products. These include but are not limited to progress reports; financial reports, closeout documentation; products specified in the Work Plans, such as reports for HUD and the public on activities conducted and results achieved, Logic Model reports, etc. Failure to submit required documents on time may cause the Grant Officer to take action to suspend or terminate the award.

Section 508 of the Rehabilitation Act of 1973 requires all Federal electronic and information technology to be accessible by people with disabilities. All Products of Work that will be posted on HUD's website must meet HUD's Web Publication Standards and Procedures at www.hud.gov/assist/webpolicies.cfm.

Environmental Review

This Environmental Review section applies to Category 2 Grants (Detailed Execution Plans and Programs), as described in the NOFA, for projects that involve site control or acquisition.

Activities that involve site control or acquisition are subject to HUD environmental review under 24 CFR Part 50. For projects involving these activities, HUD's notification of award constituted only a preliminary approval by HUD subject to the completion of an environmental review of the proposed site(s). Selection for participation and the execution of this *Agreement* do not constitute approval of the proposed site(s). Each proposal involving site control or acquisition is subject to a HUD environmental review, and the Grantee's proposal may be modified or the proposed sites rejected as a result of that review.

The Grantee shall not acquire, rehabilitate, demolish, convert, lease, repair, or construct property, nor commit or expend HUD or local funds for these program activities with respect to any eligible property, until HUD approval of the property is received. An option agreement on a proposed site or property is allowable prior to the completion of the environmental review if the option agreement is subject to a determination by HUD on the desirability of the property for the project as a result of the completion of the HUD environmental review and the cost of the option is a nominal portion of the purchase price.

The Grantee shall assist HUD in complying with 24 CFR Part 50; shall supply HUD with all available, relevant information necessary for HUD to perform an environmental review for each property, as requested by HUD; and, shall carry out mitigating measures required by HUD or select alternate eligible property if required by HUD.

Equipment

When acquiring equipment, the Grantee shall comply with the requirements set forth in 24 CFR 84.34 or 24 CFR 85.32, whichever is applicable, OMB Circular A-87 (2 CFR Part 225), and OMB Circular A-122 (2 CFR Part 230).

Estimated Cost and Payment- Line Of Credit Control System (LOCCS/eLOCCS)

The Grantee shall be reimbursed for costs incurred in the performance of work under this grant in an amount not-to-exceed "Total HUD Amount" in Block 14 of the HUD 1044. In the event the Grantee incurs cost in excess of this amount, the excess shall be borne entirely by the Grantee.

Incurred costs shall be reimbursed through HUD's Line of Credit Control System (LOCCS) using the eLOCCS web based system. Each day LOCCS generates a payment tape for the Department of the Treasury, which disburses the payments via the Automated Clearinghouse (ACH) Payment System and a Voucher and Schedule of Payments. All payments are certified by HUD and forwarded to Treasury for processing.

Before receiving funds from the eLOCCS, the Grantee must designate a financial institution for HUD to make direct deposit payments through the ACH system. In the event the Grantee, during the performance of this grant, elects to designate a different financial institution for the receipt of any payments, notification of such change and the related information must be received by the Grant Officer 30 days prior to the date such change is to become effective.

To have access to LOCCS and the eLOCCS, the Grantee shall obtain a Security ID and Password from HUD's LOCCS Security Officer, using the form HUD-27054, LOCCS Voice Response /eLOCCS Access Authorization Form.

The Grantee shall submit the original vouchers for work performed to the GTR identified in Block 9 of the form HUD-1044. The voucher shall be supported by a detailed breakdown of the cost(s) claimed (Grantees are to use the Part 3 Financial Reporting Attachment included in Policy Guidance 2001-03). In order to assure proper payment, it is important that the voucher is in accordance with the payment amount requested through the eLOCCS. Payment requires the Grantee to go to eLOCCS and provide the Security ID number and requested information. Detailed instructions for using the LOCCS-eLOCCS were provided in HUD's Transmittal Letter for your award.

Funds advanced to the Grantee shall be maintained in an interest bearing account. Any interest earned by the Grantee as a result of the advanced funds shall be promptly returned to HUD.

All check remittances should be sent to the new Miscellaneous Lockbox as follows:

Bank of America
DHUD P.O. Box 277303
Atlanta, GA 30384-7303

If the Grantee is a State, local government or Indian Tribe, the Grantee may retain up to \$100.00 of interest earned per Grantee's fiscal year for administrative expenses (24 CFR 85.21).

If the Grantee is a University, non-profit or for profit organization, the Grantee may retain up to \$250.00 of interest earned per Grantee's fiscal year for administrative expenses (24 CFR 84.22).

State universities and hospitals shall comply with the Cash Management Improvement Act (CMIA), as it pertains to interest.

Other funds due to HUD after the end date of the grant or close-out, as a result of internal audit or other reasons, will be returned to the GTR identified in Block 9 of the form HUD-1044 of this grant.

Should the Grantee demonstrate an unwillingness or inability to establish procedures that will minimize the time elapsing between advances and disbursements, or fail to provide any required progress report in a timely manner, the authorization for advance payments may be revoked. The Grantee may then be required to finance the project with its own working capital and payment to the Grantee may be made by Treasury check to reimburse it for actual cash disbursements that are approved by the GTR.

Fair Housing and Civil Rights Laws

- a) The Grantee represents, warrants, and certifies to HUD that it shall comply with all applicable Federal statutes, regulations, and requirements relating to non-discrimination and equal opportunity identified in HUD's regulations at 24 CFR § 5.105(a), and assure such compliance of any of its sub-grantees under this Agreement, including the following:
 1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d-2000d-4) and implementing regulations at 24 CFR part 1, Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development-Effectuation of Title VI of the Civil Rights Act of 1964;

2. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681:1683, 1685:1688) and implementing regulations at 24 CFR part 3, Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance;
 3. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and implementing regulations at 24 CFR part 8, Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development;
 4. Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 *et seq.*) and implementing regulations at 28 CFR part 35;
 5. The Fair Housing Act (42 U.S.C. §§ 3601-19) and implementing regulations at 24 CFR Part 100, Discriminatory Conduct Under the Fair Housing Act;
 6. Executive Order 11063, as amended by Executive Order 12259, and implementing regulations at 24 CFR part 107, Nondiscrimination and Equal Opportunity in Housing Under Executive Order 11063; and
 7. The Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-6107) and implementing regulations at 24 CFR part 146, Nondiscrimination on the Basis of Age in HUD Programs or Activities Receiving Federal Financial Assistance.
- b) The Grantee represents, warrants, and certifies to HUD that it shall administer its grant in a manner that affirmatively furthers fair housing and that, at a minimum, it shall carry out all actions to affirmatively further fair housing as proposed in its application for financial assistance under the Sustainable Communities Regional Planning Grant Program.
 - c) The Grantee represents, warrants, and certifies to HUD that it shall ensure that employment, contracting, and other economic opportunities generated by the Sustainable Communities Regional Planning Grant Program shall, to the greatest extent feasible, be directed to low- and very low-income persons pursuant to Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and HUD's implementing regulations at 24 CFR part 135.
 - d) Grantees are required to cooperate and assist HUD in its nondiscrimination and equal opportunity compliance activities and are required to maintain and submit racial, ethnic, disability, and other demographic data pursuant to HUD's nondiscrimination and equal opportunity regulations including those at 24 CFR §§ 1.6, 8.55, 107.30, and 121.2.

Flow Down Provisions

If the Grantee contracts or subawards funds under this agreement with a person or entity to perform work under this award, the Grantee shall include in the contract or subaward agreement such provisions as may be necessary to ensure that all contractors and subgrantees comply with the requirements of the grant and reporting provisions as set forth in these terms and conditions or as established by HUD and the Office of Management and Budget (OMB)

The Terms and Conditions of this agreement flow down to all tiers of subgrantees. All subgrantees are required to obtain a DUNS numbers (or update its existing DUNS record), and register with the Central Contractor Registration (CCR; www.ccr.gov) no later than 120 days after execution of this agreement.

HUD's Right to Audit and Disallow and Recover Funds

The government reserves the right to seek recovery of any funds that were not expended in accordance with the requirements or conditions of this agreement based upon HUD review, the final audit, or any other special audits or reviews undertaken. HUD has the right to order a special audit, even if the Grantee's auditor or a cognizant agency has already conducted one.

HUD's Substantial Involvement

Because this is a Cooperative Agreement, HUD intends to have substantial involvement in the review, development, and approval of all aspects of the work to be carried out under this cooperative agreement. The substantial involvement will be focused through the GTR and GTM. Anticipated substantial involvement by HUD staff may include, but will not be limited to:

- Review and possibly suggest amendments to the study design, including:
 - o study objectives
 - o field sampling plan
 - o sample handling and preparation
 - o sample and data analysis
 - o quality assurance
- Review and provide scientific and technical recommendations in response to quarterly progress reports (e.g., amendments to study design based on preliminary results).
- Review and provide scientific and technical recommendations on the final study report, including final interpretation of study results.

Incurrence of Costs

The Grantee is allowed to incur costs for activities beginning the date in Box #5 on the HUD-1044. Any costs incurred before the date are not allowable unless specifically authorized in writing by the Grant Officer or GTR.

Indirect Costs

If the Grantee has received a provisional rate, pending establishment of a final rate, reimbursement will be made on the basis of the provisional rate. By accepting this agreement, the Grantee agrees to bill at the provisional indirect cost rate until an approved indirect rate agreement becomes effective. Adjustments will be made from the provisional rate to the final rate. However, such adjustments must be within the total amount of the award as stated in Block #15 of the HUD-1044.

Inspection and Acceptance

Inspection, review, correction, and acceptance of all deliverables under this award shall be the responsibility of the GTR. The GTR may receive recommendations from assigned GTMs.

Inspector General Referrals

The Grantee or any subgrantee, subcontractor or other sub-recipient awarded funds shall promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

Limitation on Consultant Payments

Per the requirements of the NOFA, federal funds may not be used to pay or to provide reimbursement for payment of the salary of a consultant, whether retained by the federal Government or the Grantee, at a rate more than the equivalent of General Schedule 15, Step 10 base pay rate. See the Office of Personnel Management Website, www.opm.gov, and its Salaries and Wages link for the current base rate, which may be lower than the local rate.

Limitation on Payments to Influence Certain Federal Transactions

Section 1352 of Title 31 of the U.S. Code provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay 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 any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering

into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Lobbying Activities Prohibition

The Grantee is subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. 1352 (the Byrd Amendment), implemented in HUD regulations at 24 CFR Part 87 and to the provisions of the Lobbying Disclosure Act of 1995, P.L. 104-65 (December 19, 1995).

Management and Work Plan (with Logic Model Standards)

The management and work plan, deliverables and budget revisions shall comply with the requirements established by the NOFA. The Grantee shall complete and submit a detailed management and work plan (with Logic Model) within 60 days after the effective date of the grant; this plan is subject to review and approval by HUD. The revisions to the general plan submitted in the proposal shall include any negotiated changes of the work plan or budget if applicable. The plan shall be developed according to the instructions and Logic Model standards that will be provided by the GTR.

The management and work plan consists of the goals and time-phased objectives and deliverables for each of the major tasks to be undertaken by the program. A Logic Model (milestones) has been developed to assist the Grantee plan and implement its program in a timely and cost-effective manner. A revised budget, in accordance with the final negotiation, shall be submitted (if necessary).

Monitoring

The responsible Departmental official, GTR, or designee may review and monitor the practices of the Grantee to determine whether it is in compliance with this Agreement or other requirements that arise as a result of the Grant Award. The GTR will also provide performance monitoring by tracking Grantee's progress in meeting the goals and objectives of the program.

Order of Precedence

In the event of any inconsistency among any provisions of this grant, the following order of precedence shall apply:

- a) Cooperative Agreement
- b) NOFA
- c) Management and Work Plan.
- d) Uniform Administrative Requirements.
- e) Grantee's Proposal (if incorporated)

Patent Rights (Small Business Firms And Nonprofit Organizations)

Patent rights are as specified in 37 CFR Part 401, entitled "Rights to Inventions made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements." Inquiries regarding this Patent Rights clause should be in writing and directed to:

Grant Officer
Office of Sustainable Housing and Communities
U.S. Department of Housing and Urban Development
451 Seventh Street SW, Room 10180
Washington, DC 20410-3000

Period of Performance and Extensions and Incurring Costs or Obligating Federal Funds Beyond the Expiration Date

a) The Grantee shall provide all services stipulated in this cooperative agreement for the period of months specified in the form HUD 1044, "Assistance Award/Amendment," or its Continuation Sheet, from the effective date stipulated in Block #5 of the HUD 1044. Grantees are to comply with the requirements of 24 CFR 84.28 or 24 CFR 85.23 (Period of availability of funds), as applicable, in charging costs to the grant. All obligations incurred under the award must be liquidated within the period of performance. The preparation of the final administrative and financial reports is to be completed 30 days prior to the end of the period of performance.

b) The Grantee shall not incur costs or obligate federal funds for any purpose pertaining to the operation of the project or program, 30 days prior to the end of the period of performance. The only costs which are authorized during the last 30 days of the period of performance are those strictly associated with closeout activities. Closeout activities are normally limited to the preparation of final progress, financial, and required project audit reports unless otherwise approved in writing by the Grant Officer.

The Office of Sustainable Housing and Communities has no obligation to provide any additional prospective funding. Any amendment of the award to increase funding is at the sole discretion of that Office.

Personnel

The personnel, specified as key personnel in the original or amended HUD form 2010 (Rating Factor Form), Factor 1, Capacity of the Applicant and Relevant Organizational Experience, are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals to other work, the Grantee shall notify the Grant Officer and GTR reasonably in advance in writing and shall submit justification (including proposed substitutions (with the qualifications and experience of the substitute personnel)) in sufficient detail to permit evaluation of the impact on the work effort. No diversion shall be made by the Grantee without the written consent of the Grant Officer.

Profit/Fee

No increment above cost, fee, or profit may be paid to the Grantee or any subgrantee under this award.

Program Income

Any program income derived as a result of this award shall be added to funds committed under the award to further activities eligible for assistance under this agreement. If not contained in the Work Plan or under Special Conditions itemized in these provisions, prior to using program income to further the objectives of the grant program, the parties shall mutually agree by written amendment on the use of program income. Program income received after the period of performance must be used to further the objectives of the applicable grant program for which this grant is awarded in accordance with 24 CFR 84.24 or 85.25, as applicable.

Prohibited Use of Funds

You may not use funds for the following ineligible activities:

- (a) Ineligible administrative activities under OMB Circular A-102 (24 CFR Part 85), Grants and Cooperative Agreements with States and Local Governments; OMB Circular A-110 (2 CFR Part 215) Uniform Administrative Requirements for Grants and Cooperative Agreement with Institutions of Higher Education, Hospitals and other Non-Profit Organizations;
- (b) Ineligible costs under OMB Circular A-87 (2 CFR Part 225), Cost Principles for State and Local and Indian Tribal Governments; and OMB Circular A-122 (2 CFR Part 230), Cost Principles for Non-Profit Organizations;
- (c) Developing plans that would assist business or industry to relocate to an area to the detriment of communities where the business or industry is currently located. This funding restriction does not apply to businesses that are displaced as a result of Category 2 projects. The requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601) (codified at 49 CFR Part 24) cover any person who moves permanently from real property or moves personal property from real property as a result of direct acquisition, rehabilitation, or demolition for a program or project receiving HUD assistance (See the General Section).
- (d) Substitution of Sustainable Communities funds for funding already pledged to support community development; housing; watershed, air and water quality; transportation planning; food production and distribution planning; and other planning activities eligible under the sustainable communities planning program.

Publications and News Releases

The results of work conducted under the award may be made available to the public through dedication, assignment by HUD, or other means, as HUD shall determine.

All interim and final reports and any other specified deliverables shall be owned by the government and held for the benefit of the public which shall include Grantee and Grantee's sub-recipients.

Interim and final reports (including, if applicable, scientific manuscripts) may not be published by the Grantee or any sub-recipients participating in the work for a period of sixty days after acceptance of the deliverables by the GTR.

All deliverables, or any part thereof, and any independent products and special products arising from this award, when published by the Grantee or other participants in the work shall contain the following acknowledgment and disclaimer:

The work that provided the basis for this publication was supported by funding under an award with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the Government."

Copies of all press releases, formal announcements, and other planned, written issuances containing news or information concerning work products or activities of this award that may be made by the Grantee or its staff, or any sub-grantee or other person or organization participating in the work of the award, shall, be provided to the GTR for review and comment before the planned release. Whenever possible, these should be provided to the GTR for review and comment at least two weeks before the planned release, but in no event simultaneously with the release.

The use of Social Media, such as web feeds, wikis, blogs, photo and video-sharing, podcasts, and microblogs is acceptable under OSHC grant programs. Information to be released through Social Media must be provided to the GTR for review and comment at least 2 business days before the planned release.

Reporting

a) Deliverables

The Grantee shall include a schedule listing all significant project milestones, and dates for submission of all project deliverables including quarterly project reports, interim reports where appropriate, the final report, and financial reports utilizing Standard Form 425, the Federal

Financial Report. Upon approval of the Work Plan, the Grantee should ensure all deliverables identified in the Work Plan and Logic Model schedule are delivered on time.

b) Biannual Progress Reports

A template to be used in the preparation of each biannual report will be provided by HUD after grant award. Biannual reports must reflect activities undertaken, obstacles encountered and solutions achieved, and accomplishments in each calendar quarter. Contracts, training materials and protocols, rosters of persons trained, outreach and educational materials prepared, and other significant products developed to implement, analyze or control the project or disseminate information are to be submitted with the quarterly reports as attachments.

Grantees shall submit reports as specified in this clause. The reports submitted to HUD require the submission of a work plan with specific, time phased, and realistic goals, objectives, and Logic Model milestones established. Biannual status reports that show progress and measure performance of the program in meeting approved work plan goals, objectives and Logic Model milestones are to be submitted.

Grantees are advised that failure to submit timely biannual progress reports will result in not having their "eLOCCS Request Voucher for Grant Payment" processed and also may result in a low performance rating, which could result in grant termination.

c) Required Reports

- Grantees are required to submit biannual reports, including Logic Model reports. Reporting requirements are specified in the Notice of Funding Availability and these Terms and Conditions. In case of conflict, the more-stringent provisions apply.
- Economic Opportunities for Low- and Very Low-Income Persons (Section 3). The HUD Form 60002, Economic Opportunities for Low- and Very Low-Income Persons (Section 3) must be submitted by January 10th, and yearly thereafter.
- Federal Financial Report (Standard Form 425)

d) Final Report

A final report shall be submitted. The final report shall summarize the applicant's plans, execution of the plans, achievements noted, and lessons learned. The report need not be lengthy, but should be of a quality and detail to provide freestanding description to any outside reader of all of the applicant's work and achievement under the grant. See clause entitled "Closeout" for the specific elements to be included with your final report. Specific and detailed guidance on preparing the forms and the narratives may be obtained from the GTR.

Reproduction of Reports

BRANCH PROCUREMENT OF CERTAIN KINDS OF PRINTING; "PRINTING" DEFINED

Pub. L. 102-392, title II, Sec. 207(a), Oct. 6, 1992, 106 Stat. 1719, as amended by Pub. L. 103-283, title II, Sec. 207, July 22, 1994, 108 Stat. 1440; Pub. L. 104-201, div. A, title XI, Sec. 1112(e)(1), Sept. 23, 1996, 110 Stat. 2683, provided that:

- 1) None of the funds appropriated for any fiscal year may be obligated or expended by any entity of the executive branch for the procurement of any printing related to the production of Government publications (including printed forms), unless such procurement is by or through the Government Printing Office.
- 2) Paragraph (1) does not apply to (A) individual printing orders costing not more than \$1,000, if the work is not of a continuing or repetitive nature, and, as certified by the Public Printer, if the work is included in a class of work which cannot be provided more economically through the Government Printing Office, (B) printing for the Central Intelligence Agency, the Defense Intelligence Agency, National Imagery and Mapping Agency, or the National Security Agency, or (C) printing from other sources that is specifically authorized by law.

As used in this section, the term "printing" includes the processes of composition, platemaking, presswork, duplicating, silkscreen processes, binding, microform, and the end items of such processes.

Review of Deliverables

a) Definition- For the purpose of this clause, "Deliverables" include:

- 1) All interim and final reports;
- 2) Survey instruments required by Work Plan, if applicable;
- 3) Other physical materials and products produced directly under the Work Plan of this grant, if applicable; and
- 4) In-kind and leverage commitments, if applicable.

b) General

- 1) The GTR shall have the sole responsibility for HUD review, correction, and acceptance of the deliverables of this grant. Such review(s) shall be carried out promptly by the GTR, so as not to impede the work of the Grantee.
- 2) The Grantee shall carry out the required corrections, if any, provided by the GTR and shall promptly return a revised copy of the product to the GTR.
- 3) The basis for acceptance shall be the Grantee's good faith efforts to complete the deliverables of this grant.
- 4) The GTR's review, correction, and acceptance of deliverables shall be limited to:

- (i) corrections of omissions or errors of fact, methodology, or analysis; ii) deletion of irrelevant materials; and (iii) improvements in style readability.
- 5) In the review and acceptance of deliverables, the GTR may not require any change in the Grantee's stated views, opinions, or conclusions.
- 6) Should there be any disagreement between the Grantee and the GTR as to any correction, or the methodology or analysis on which any conclusion is based, the GTR may require the Grantee to insert a Government dissent(s) in the appropriate place(s). The inclusion of such dissent(s) in an Official Product of Work, otherwise found acceptable by GTR, and the return to the GTR of a revised copy containing the dissent(s), shall satisfy the requirements for acceptance of the Official Product of Work under this clause. Such dissent(s) shall not apply to any independent publication by the Grantee of Independent Products that may arise from the work or findings of this grant.

Scope of Services

The Grantee shall furnish the necessary personnel, materials, services, equipment, facilities (except as otherwise specified herein) and otherwise do all things necessary for or incidental to the performance of the work set forth in the original/revised application under the this NOFA, as well as the subsequent Management and Work Plan and Logic Model schedule.

Single Audit Transparency Transactions Listed in Schedule of Expenditures of Federal Awards and Recipient Responsibilities for Informing Sub-recipients.

a) Uniform Administrative Requirements for Grants and Agreements" and OMB A-102 (24 CFR Part 85) Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of funds.

b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133 (2 CFR Part 180), "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133 (2 CFR Part 180).

c) Recipients agree to separately identify to each sub-recipient, and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of funds.

d) Recipients agree to require their sub-recipients to include on their SEFA. This information is needed to allow the recipient to properly monitor sub-recipient expenditure of as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

Special Conditions

Special Conditions to this award are listed in the form HUD-1044 Continuation Sheets.

Sub-recipient Monitoring and Management

Recipients will be responsible for the monitoring and management of all sub-recipient awards. Management and reporting requirements applied to direct recipients tier-down to employees, affiliates, sub-recipients, and subcontractors, and recipients will be responsible for ensuring compliance and submitting required reports to HUD. Recipients may incorporate all sub-recipient reporting into a consolidated report with the exception of the requirements established for compliance with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282) also known as FFATA or the Transparency Act.

Whistleblower Protection

Each grantee or sub-grantee awarded funds made available shall promptly refer to the HUD Office of Inspector General any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. Complaints can be made to the HUD Office of Inspector General through any of the following means:

Calling toll-free at 1-800-347-3735; persons who have hearing or speech disabilities may reach this number from the Federal Relay Service, at 1-800-877-8339.

Faxing at (202) 708-4829

E-mailing to hotline@hudoig.gov

Writing to HUD OIG Hotline (GFI), 451 7th Street, SW, Washington, DC 20410

Exhibit B

Contractor Budget for Project Services

Jobs Central Draft Budget Prepared 8.31.12		Project period: September 15, 2012 to November 15, 2013		
Contract Amount		\$ 109,950.00		
* Projected expenditure by year				
Expenses	2012	2013	Total	Notes
	14 weeks	44 weeks	58 weeks	
Personnel				
DCC E.D. and Project Manager	\$ 4,422.90	\$ 8,710.85	\$ 13,133.75	DCC Executive Director: 9% of 1 FTE during project period
Project Coordinator – wages	\$ 7,078.00	\$ 11,122.00	\$ 18,200.00	DCC Communications & Outreach Coordinator: 22% FTE
Project Connectors – wages	\$ 12,055.00	\$ 38,357.00	\$ 50,412.00	Project Coordinator – 720 hrs @\$25.27/hr
				7 Connectors @\$7,500 each – 368 hrs @\$19.57/hr
Subtotal	\$ 23,555.90	\$ 58,189.85	\$ 81,745.75	
Insurance and Taxes				
DCC Payroll Taxes, Insurance, Benefits	\$ 1,045.93	\$ 2,070.79	\$ 3,116.72	
Project Coordinator	\$ 621.15	\$ 893.85	\$ 1,515.00	
Project Connectors	\$ 1,117.20	\$ 3,537.80	\$ 4,655.00	
Subtotal	\$ 2,784.28	\$ 6,502.44	\$ 9,286.72	
Direct Project Expenses				
Community Engagement Activities	\$ 1,700.00	\$ 5,100.00	\$ 6,800.00	Food and related expenses
Connector Orientation Activities	\$ 1,000.00		\$ 1,000.00	Orientation materials, food, etc.
Telephone and Internet	\$ 1,250.00	\$ 750.00	\$ 2,000.00	Supplemental phone service for 8 project staff
Equipment & Software	\$ 1,500.00		\$ 1,500.00	Project documentation equipment, e.g. computer
Local Travel	\$ 250.00	\$ 750.00	\$ 1,000.00	Parking for mtgs, bus fare, mileage for limited local travel
External Printing & copying	\$ 1,000.00	\$ 500.00	\$ 1,500.00	Handouts for distribution to community, etc.
Subtotal	\$ 6,700.00	\$ 7,100.00	\$ 13,800.00	
Supplemental Insurance				
Workers Comp	\$ 112.50	\$ 337.50	\$ 450.00	Supplemental insurance for project
Subtotal	\$ 112.50	\$ 337.50	\$ 450.00	
Supplemental Financial Services & Payroll Fees				
Accounting – monthly	\$ 300.00	\$ 900.00	\$ 1,200.00	\$75/month for project bookkeeping & payroll
Payroll Set-up & Tax reporting	\$ 275.00	\$ 50.00	\$ 325.00	Payroll set-up; W-2 forms
Intuit subscription fee – annual	\$ 400.00	\$ 400.00	\$ 800.00	Supplemental Intuit payroll subscription @\$400/year
				(project pushes us into different bracket)
Subtotal	\$ 975.00	\$ 1,350.00	\$ 2,325.00	
Office Overhead				
Rent & utilities	\$ 262.50	\$ 787.50	\$ 1,050.00	Approx. 15% of projected rent & utilities during project
Supplies --- office	\$ 500.00	\$ 500.00	\$ 1,000.00	Internal copying, paper, misc. office supplies
Postage & Delivery	\$ 75.00	\$ 75.00	\$ 150.00	
Miscellaneous	\$ 75.00	\$ 67.53	\$ 142.53	
Subtotal	\$ 912.50	\$ 1,430.03	\$ 2,342.53	
Total	\$ 35,040.18	\$ 74,909.82	\$ 109,950.00	
Over/Under Budget			\$ -	

Exhibit C

Contractor Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his/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 an 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 cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative 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 cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned will 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 cooperative agreements) and that all subrecipients 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.C. 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.

Contractor Name

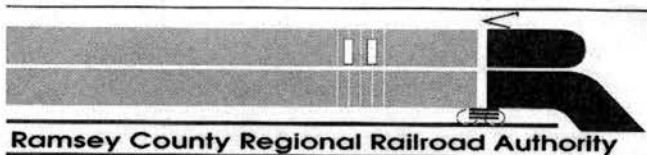
Program

Signature of Certifying Official

Print Name

Title

Date



3

REQUEST FOR ACTION

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

Regional Railroad Authority Meeting Date: 9/11/2012

Regional Railroad Authority Meeting Date: _____

SUBJECT: Maximum Tax Levy for the Ramsey County Regional Railroad Authority 2013 Budget

EXECUTIVE SUMMARY

The Proposed Property Taxes Law (M.S. 275.065) requires the Ramsey County Regional Railroad Authority (RCRRA) to certify a proposed maximum tax levy to the Property Records and Revenue Department (County Auditor) by September 15, 2012.

An important provision of the Proposed Property Taxes Law is that the approved tax levy for the 2013 RCRRA budget cannot be more than the proposed maximum tax levy certified by the RCRRA.

The 2013 proposed levy for the RCRRA is \$19,938,811, which is an increase of 0% from last year's levy of \$19,938,811.

The RCRRA will approve the 2013 Supplemental Budget, addenda, and levy on December 11, 2012.

ACTION REQUESTED

Approve the proposed maximum tax levy of \$19,938,811 to finance the 2013 Ramsey County Regional Railroad Authority Budget, which in accordance with the Proposed Property Taxes Law, must be certified to the Department of Property Records and Revenue by September 15, 2012.

1

SUBJECT: Maximum Tax Levy for the Ramsey County Regional Railroad Authority 2013 Budget

ATTACHMENTS:

PREVIOUS ACTION:

COUNTY MANAGER'S COMMENTS:

The proposed maximum tax levy must be certified by September 15, 2012 to comply with the Proposed Property Taxes Law.

SUBJECT: Maximum Tax Levy for the Ramsey County Regional Railroad Authority 2013 Budget

Regional Railroad Authority – Authorized Signature	Date
	9/4/12

Budgeting & Accounting – Authorized Signature	Date
	9/4/12

County Attorney – Authorized Signature	Date
	9/5/12

Property Management – Authorized Signature	Date

Information Services – Authorized Signature	Date

Other – Authorized Signature	Date

SUBJECT: Maximum Tax Levy for the Ramsey County Regional Railroad Authority 2013 Budget

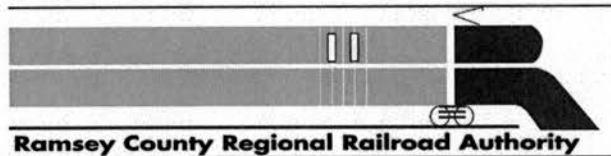
Draft Resolution

1 WHEREAS, The Proposed Property Taxes Law (M.S. 275.065) requires the Ramsey
2 County Regional Railroad Authority to certify a proposed maximum tax levy to the Property
3 Records and Revenue Department (County Auditor) by September 15, 2012; and
4

5 WHEREAS, The Proposed Property Taxes Law includes a provision that the approved tax
6 levy for the 2013 RCRRA budget cannot be more than the proposed tax levy certified by the
7 Ramsey County Regional Railroad Authority by September 15, 2012; and
8

9 WHEREAS, In order to continue to improve the quality of life and access to services in the
10 region, to remain a partner in transit activities in the region with other agencies, including the
11 Minnesota Department of Transportation, the seven metro county Regional Railroad Authorities,
12 Metropolitan Council and Metro Transit; Now, Therefore Be It
13

14 RESOLVED, The Ramsey County Regional Railroad Authority hereby approves the
15 proposed maximum tax levy of \$19,938,811 to finance the 2013 Ramsey County Regional
16 Railroad Authority Budget, which in accordance with the Proposed Property Taxes Law, must be
17 certified to the Department of Property Records and Revenue by September 15, 2012.



Union Depot, Suite 200
214 4th Street East
St. Paul, Minnesota 55101
(651) 266-2760

REGIONAL RAILROAD AUTHORITY MEETING

September 25, 2012

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

.....
ROLL CALL and Call to Order

AGENDA of the September 25, 2012 Regional Railroad Authority Meeting is presented for approval.

MINUTES of the September 11, 2012 Regional Railroad Authority Meeting is presented for approval.

ADMINISTRATIVE AGENDA

1. **Release of Solicitation Document Seeking an Artist for a Multicultural and Historic Public Art Commission at Union Depot**

Board Action Requested:

Authorize the issuance of a Supplemental Call to Artists (Request for Proposals) for a Multicultural and Historic Public Art Commission at Union Depot in accordance with Ramsey County policies and procedures on Requests for Proposals, with direction to staff to return to the Ramsey County Regional Railroad Authority with a selection of an artist or artist team for contracting authorization, and informational updates at milestones throughout the process.

2. **Release of Solicitation Document Seeking Artists for Small-Scale Public Art Commissions at Union Depot**

Board Action Requested:

Authorize the issuance of a Supplemental Call to Artists (Request for Proposals) for Small-Scale Public Art Commissions at Union Depot in accordance with Ramsey County policies and procedures on Requests for Proposals, with direction to staff to return to the Ramsey County Regional Railroad Authority with a selection of artists for contracting authorization, and informational updates at milestones throughout the process.

3. **East Metro Rail Capacity Study - Presentation**

Board Action Requested:

None. For information and discussion only.

CORRIDOR UPDATES

ADJOURNMENT

RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY

September 11, 2012

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 Paul Zisla, Assistant County Attorney, Ramsey County Attorney's Office.

Chair McDonough called the meeting to order at 9:47 A.M.

AGENDA

Commissioner Carter moved approval of the Agenda of the September 11, 2012 Regional Railroad Authority Meeting, seconded by Commissioner Parker. Roll Call: Ayes – Rettman, Bennett, Carter, Ortega, Parker, Reinhardt, McDonough – 7. Nays – 0.

MINUTES

Commissioner Parker moved approval of the Minutes of the August 7, 2012 Regional Railroad Authority Meeting, seconded by Commissioner Ortega. Roll Call: Ayes – Rettman, Bennett, Carter, Ortega, Parker, Reinhardt, McDonough – 7. Nays – 0.

1. Amendment to the Memorandum of Agreement between the City of Saint Paul and the Metropolitan Council for the Brownfields Assessment Coalition

Commissioner Reinhardt moved approval of the following resolution, seconded by Commissioner Parker. Roll Call: Ayes – Rettman, Bennett, Carter, Ortega, Parker, Reinhardt, McDonough – 7. Nays – 0. (R12-35)

WHEREAS, The City of Saint Paul entered a Memorandum of Agreement with the Metropolitan Council and RCRRA for funding from the Environmental Protection Agency (EPA) from its Brownfield Assessment Grant Program to evaluate environmental conditions along the Central Corridor; and

WHEREAS, The EPA awarded the City of Saint Paul with its collation partners a Brownfield Assessment Grant in August 2009, to be completed by September 30, 2012; and

WHEREAS, The scheduled completion of the work is now September 30, 2013 as approved by EPA, Now, Therefore, Be It

RESOLVED, Ramsey County Regional Railroad Authority approves the Amendment to the Memorandum of Agreement between the City of Saint Paul, Metropolitan Council and Ramsey County Regional Railroad Authority; and Be It Further

RESOLVED, The Ramsey County Regional Railroad Authority authorizes the Chair to execute the Amendment.

2. Agreement with the District Councils Collaborative for Jobs Central Project

Commissioner Carter moved approval of the following resolution, seconded by Commissioner Ortega.

Commissioner Rettman said she had some concerns on this item prior to today's board meeting and sought answers to some questions. She had asked Janet Guthrie, Senior Policy Analyst, County Manager's Office, for information and Ms. Guthrie's response was sent to all commissioners. She had asked if the District Councils were going to be asked to do any of this work and if they would receive any of the grant funds. She also wanted to assure that the information from all of the meetings is disseminated to the designated sources, and that regular communication on the project is sent to the communities. She said she wanted to assure that the neighborhoods along Central Corridor are getting a return on the investment from this project.

Roll Call: Ayes – Rettman, Bennett, Carter, Ortega, Parker, Reinhardt, McDonough – 7. Nays – 0. (R12-36)

WHEREAS, The Jobs Central Project ("Jobs Central") has been funded under the Corridors of Opportunity regional initiative by a U.S. Department of Housing and Economic Development ("HUD") Sustainable Communities Initiative grant through the Metropolitan Council to Ramsey County Regional Railroad Authority ("RRA") for the purpose of better aligning workforce and economic development strategies in the Central Corridor in Saint Paul and Minneapolis ("Corridor"); and

WHEREAS, Jobs Central's activities are focused on low-income, unemployed and under-employed Corridor residents from a range of cultural and racial communities who have little or no connections to existing formal workforce resources; and

WHEREAS, Jobs Central wishes to contract with a community organization to provide community outreach and engagement to connect Corridor residents to workforce development resources in the community; and

WHEREAS, Jobs Central's geographic focus requires an organization experienced in working in the communities along the Corridor in both Saint Paul and Minneapolis; and

WHEREAS, The District Councils Collaborative of Saint Paul and Minneapolis ("Contractor") was formed to work with communities along the Corridor; and

WHEREAS, The Contractor's experience performing community outreach and engagement in the Corridor is consistent with Jobs Central's requirements; and

WHEREAS, The Contractor has the unique combination of geographic focus, experience and capacity necessary to meet Jobs Central's community outreach and engagement needs; and

WHEREAS, The proposal for services and budget submitted by the Contractor provides the services required by Jobs Central and is within Jobs Central's budget; Now, Therefore, Be It

RESOLVED, The Ramsey County Regional Railroad Authority approves the agreement with District Councils Collaborative of Saint Paul and Minneapolis, 1080 University Avenue West, Saint Paul, Minnesota, 55104, for Community Outreach and Engagement Services for the period of September 11, 2012 to November 15, 2013, in the amount of \$109,950.; And, Be It Further

RESOLVED, The Ramsey County Regional Railroad Authority authorizes the Chair and Chief Clerk to execute the agreement.

3. Maximum Levy for the Ramsey County Regional Railroad Authority 2013 Budget

Commissioner Ortega moved approval of the following resolution, seconded by Commissioner Parker. Roll Call: Ayes – Rettman, Bennett, Carter, Ortega, Parker, Reinhardt, McDonough – 7. Nays – 0. (R12-37)

WHEREAS, The Proposed Property Taxes 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, 2012; and

WHEREAS, The Proposed Property Taxes Law includes a provision that the approved tax levy for the 2013 RCRRA budget cannot be more than the proposed tax levy certified by the Ramsey County Regional Railroad Authority by September 15, 2012; 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, The Ramsey County Regional Railroad Authority hereby approves the proposed maximum tax levy of \$19,938,811 to finance the 2013 Ramsey County Regional Railroad Authority Budget,

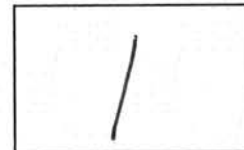
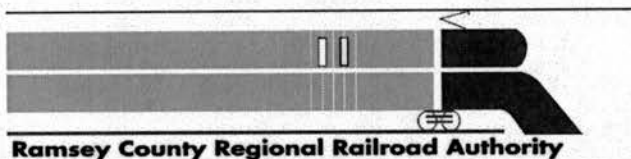
which in accordance with the Proposed Property Taxes Law, must be certified to the Department of Property Records and Revenue by September 15, 2012.

CORRIDOR UPDATES

No updates were reported.

ADJOURNMENT

There being no further business, Chair McDonough declared the meeting adjourned at 9:51 A.M.



REQUEST FOR ACTION

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

Regional Railroad Authority Meeting Date: **09/25/2012**

Regional Railroad Authority Meeting Date:

SUBJECT: Release of Solicitation Document Seeking an Artist or Artists for a Multicultural and Historic Public Art Commission at Union Depot

EXECUTIVE SUMMARY:

The Federal Transit Administration (FTA) strongly encourages its funded major construction projects to include a public art program within the project capital costs. FTA's reasoning for this investment is stated in Circular C9400.1A-Federal Transit Administration Design and Art in Transit Projects:

"The visual quality of the nation's transportation systems has a profound impact on transit patrons and the community at large. Mass transit systems should be positive symbols in the community, attracting local riders, tourists and the attention of decision makers for local, regional, national and international events. Good design and art can improve the appearance and safety of a facility, give vibrancy to its public spaces and make patrons feel welcome. Good design and art will also contribute to the goal that transit facilities help to create livable communities."

FTA guidelines state that the public art budget should at a minimum be one half of one percent of construction costs, but should not exceed five percent of construction costs. "One percent for art" is a common practice for governmental organizations. The proposed budget for public art at the Union Depot remains at \$1.25 million, which represents slightly less than one percent of construction costs (0.84 percent).

(The Executive Summary is continued on the following page)

ACTION REQUESTED:

Authorize the issuance of a Supplemental Call to Artists (Request for Proposals) for a Multicultural and Historic Public Art Commission at Union Depot in accordance with Ramsey County policies and procedures on Requests for Proposals, with direction to staff to return to the Ramsey County Regional Railroad Authority with a selection of an artist or artist team for contracting authorization, and informational updates at milestones throughout the process.

SUBJECT: Release of Solicitation Document Seeking an Artist or Artists for a Multicultural and Historic Public Art Commission at Union Depot

(Executive Summary continued from previous page)

Subrecipient Grant Agreement MN-04-0031 with the Metropolitan Council, approved by the RCRRA in December 2011, will provide \$1 million towards public art at the Union Depot. Ramsey County Regional Railroad Authority ("RCRRA") funds in the amount of \$250,000 will provide the balance. In August 2012, the RCRRA approved contracts with four artists which accounted for \$1.05 million of the \$1.25 million budget. The balance of the budget is represented in this solicitation, and the proposed Supplemental Call to Artists for Small-Scale Public Art Commissions at Union Depot.

	FTA funds	RCRRA funds	TOTAL
Previous four commissions	\$840,000	\$210,000	\$1,050,000
* <i>Multicultural/historical commission</i>	\$120,000	\$30,000	\$150,000
Small-scale commissions	\$40,000	\$10,000	\$50,000
TOTAL	\$1,000,000	\$250,000	\$1,250,000

* = *This action.*

The purpose of this Supplemental Call to Artists (Request for Proposals) is to invite artists to submit applications for consideration for a multicultural and historic public art commission in the waiting room of Union Depot. FTA provides guidelines on the process by which artists should be selected; RCRRA staff recommends the suggested FTA process be followed. This will involve re-engaging the seven-member Union Depot Art Selection and Design Review Panel, composed of artists, arts professionals, historic preservationists, project partners and community representatives. This panel will review applications to this Supplemental Call to Artists (Request for Proposals) using the criteria listed in the Supplemental Call to Artists (Request for Proposals), select finalists, and recommend an artist or artist team to the RCRRA for contracting authorization. The total budget for the multicultural and historical public art commission will not exceed \$150,000.

It is anticipated that selected artist or artist team will enter into design, fabrication and installation contracts with the RCRRA in January 2013. Once under contract, the Union Depot Art Selection and Design Review Panel will review and approve subsequent artist design proposals. RCRRA staff will provide informational updates to the RCRRA at milestones throughout the process.

SUBJECT: Release of Solicitation Document Seeking an Artist or Artists for a Multicultural and Historic Public Art Commission at Union Depot

ATTACHMENTS:

Supplemental Call to Artists for a Multicultural and Historic Public Art Commission at the Union Depot

PREVIOUS ACTION:

RCRRA previously approved Subrecipient Grant Agreement MN-04-0031 with the Metropolitan Council, which will provide 80 percent of the funding towards public art at the Union Depot.

On February 7, 2012, Resolution R12-13 authorized the issuance of a Call to Artists (Request for Proposals) for Public Art Commissions at the Union Depot in accordance with Ramsey County policies and procedures on Requests for Proposals, with direction to staff to return to the Ramsey County Regional Railroad Authority with a selection of artists for contracting authorization.

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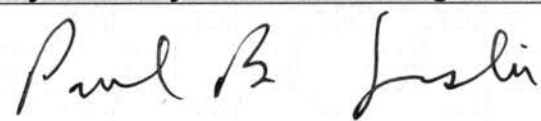
COUNTY MANAGER'S COMMENTS:

Issuance of this solicitation document requires approval of the RCRRA Board and is consistent with the County's commitment to an open, fair and competitive solicitation process.

SUBJECT: Release of Solicitation Document Seeking an Artist or Artists for a Multicultural and Historic Public Art Commission at Union Depot

Regional Railroad Authority – Authorized Signature	Date
	9/19/12

Budgeting & Accounting – Authorized Signature	Date
	9/17/12

County Attorney – Authorized Signature	Date
	9/19/12

Property Management – Authorized Signature	Date

Information Services – Authorized Signature	Date

Other – Authorized Signature	Date

DRAFT RESOLUTION

1 WHEREAS, The Ramsey County Regional Railroad Authority, along with the Federal
2 Transit Administration, recognizes the importance of public art to the overall success and viability
3 of the The Union Depot Multi-Modal Transportation and Transit Hub ("Union Depot"); and
4

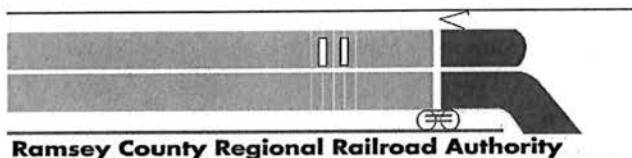
5 WHEREAS, The Federal Transit Administration's recognition of importance is coupled with
6 a commitment of \$1 million in funding towards the public art program; and
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8 WHEREAS, Public art provides a unique opportunity to recognize and celebrate the rich
9 histories of the Union Depot, St. Paul and the Lowertown neighborhood; and
10

11 WHEREAS, Public art at Union Depot will play an important role in providing the public with
12 an understanding of the multicultural history of the people who traveled through, arrived and
13 worked at Union Depot; and
14

15 WHEREAS, Public art at Union Depot will complement the power of the existing
16 architectural elements, supporting Union Depot as a destination community space, while serving to
17 enhance the enjoyment of those passing through the public spaces; Now, Therefore, Be It
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REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
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It is anticipated that selected artist or artist team will enter into design, fabrication and installation contracts with the RCRRA in January 2013. Once under contract, the Union Depot Art Selection and Design Review Panel will review and approve subsequent artist design proposals. RCRRA staff will provide informational updates to the RCRRA at milestones throughout the process.

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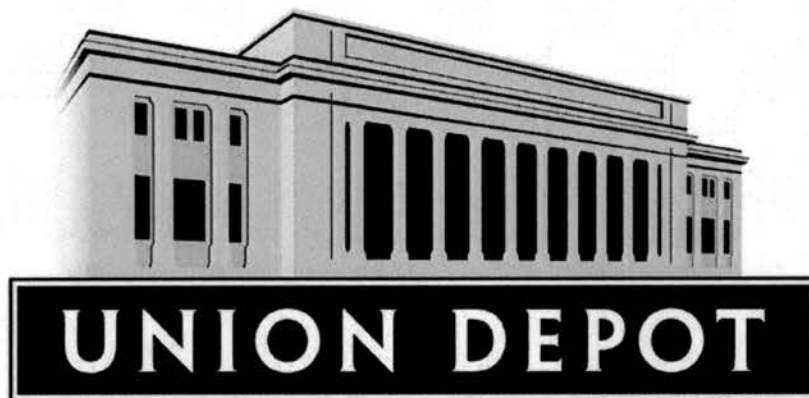
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Attachment



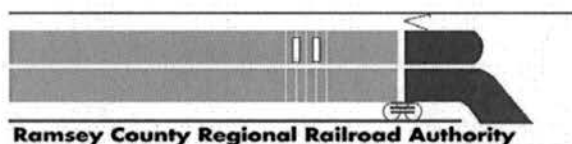
ST. PAUL, MINNESOTA

**SUPPLEMENTAL CALL TO ARTISTS
FOR A HISTORIC AND MULTICULTURAL
PUBLIC ART COMMISSION AT
UNION DEPOT**

**ST. PAUL, MINN.
SEPTEMBER 2012**

This public art opportunity focuses on educating the public about the important history and cultures of the people who were part of Union Depot over the last century.

APPLICATIONS DUE: NOVEMBER 12, 2012



**Supplemental Call to Artists
For a Historic and Multicultural Public Art Commission at Union Depot**

I. Project Information

A. Project Overview

The Ramsey County Regional Rail Authority ("RCRRA") is issuing this Supplemental Call to Artists to submit applications for consideration for a historic and multicultural artwork commission at the renovated Union Depot in St. Paul, Minnesota. **The RCRRA is not soliciting detailed concepts for this commission at this time.**

The RCRRA is committed to investing approximately \$1.25 million towards public art at Union Depot, which includes the opportunity outlined in this Supplemental Call to Artists as well as those outlined in the concurrently issued *Supplemental Call to Artists for Small-Scale Public Art Commissions at Union Depot*, and the four opportunities outlined in the April 2012 *Call to Artists for Public Art Commissions at Union Depot*. Artists have already been selected for the original four commissions, accounting for \$1.05 million of the public art budget; additional information is available at <http://bit.ly/depotartistsselection>.

Funding for all public art commissions that are part of the Union Depot project is provided in large part by the Federal Transit Administration ("FTA"), whose funds are administered locally by the Metropolitan Council and provided to the RCRRA through a sub-recipient grant agreement.

Additional information on details of the building and its construction can be found at:

<http://regionalrail.org>

<http://facebook.com/uniondepot>

<http://www.co.ramsey.mn.us/rail/UnionDepot.htm>

B. Background

The RCRRA is in the process of renovating and restoring the historic Union Depot at 214 Fourth Street East as part of the development of a Union Depot Multimodal Transportation Hub on a 33-acre site in downtown St. Paul, Minn. Renovation and restoration of Union Depot, one of America's great rail stations of the early 20th century, is considered a project of regional and national significance by the federal government. When restoration is complete later this year, the 290,000 square foot Union Depot building will be filled with activity that complements transit and embraces the building's location on the Mississippi River and in St. Paul's distinctive Lowertown neighborhood.

The long-term vision for Union Depot is a multimodal transportation center serving a promising mix of local and regional bus service, light rail, commuter rail and intercity passenger rail. The RCRRA, along with the State of Minnesota and the federal government, is investing \$243 million to redevelop the site as the premier transit hub of the region. Transportation functions will include local bus and light rail service provided by Metro Transit, intercity bus service provided by Jefferson Lines, Amtrak service to Chicago and the Pacific Northwest and connections to the region's network of bicycle trails. Union Depot will also feature a state-of-the-art bicycle center that will function as a hub for bicycle enthusiasts, commuters and recreational users.

Renovation of Union Depot will be complete by the end of 2012, and activation of the various services will occur in phases. Metro Transit bus service is expected to begin in December 2012, and Jefferson Lines service in early 2013. RCRRA is working with the Federal Railroad Administration, the private railroads and Amtrak to determine a date in 2013 for intercity train service to return to Union Depot. Beginning in 2014, the new Central Corridor Light Rail Transit ("LRT") line will terminate directly in front of Union Depot. Planned future transit service includes: high-speed rail to Chicago, Gateway Corridor, Red Rock Commuter Rail, Rush Line Corridor, Riverview Corridor and the Robert Street Transitway.

The RCRRA and the FTA recognize that the visual quality of the nation's transportation systems has a profound impact on transit patrons and the community at large. Mass transit systems should be positive symbols in the community, attracting local riders, tourists and the attention of decision makers for local, regional, national and international events. Good design and art can improve the appearance and safety of a facility, give vibrancy to its public spaces and make patrons feel welcome. Good design and art will also contribute to the goal that transit facilities help to create livable communities.

The FTA is committed to contributing funding towards public art in mass transit projects in order to create facilities that are integral components of communities. In April 2012, RCRRA issued a Call to Artists for Public Art Commissions at Union Depot, which outlined four commission opportunities throughout Union Depot. Prior to issuing the aforementioned Call to Artists, the RCRRA partnered with Public Art Saint Paul to create a set of public art ideas for Union Depot, engaging a number of artists on a multidisciplinary team to explore opportunities. The public art opportunity described in Section II of this document, as well as the four opportunities outlined in the April 2012 call, was informed by this process.

At Union Depot, public art will interweave and share space with some of the most striking architecture in the Twin Cities region and in the State of Minnesota. It will serve to enhance the enjoyment of those passing through the public spaces, while complementing the power of the existing architectural elements. Artwork that is responsive to the public art opportunity outlined in this Supplemental Call to Artists will educate the public about the important history and cultures of the people who were part of Union Depot over the last century.

Finally, a commitment to art at Union Depot will not end with the reopening of the doors. Ongoing cultural and arts programming will be an important part of the identity of Union Depot, situated in the celebrated artist community of Lowertown.

C. Project Limits

A general diagram, the Union Depot Site Plan, is included as **Appendix A** to this Supplemental Call to Artists.

It should be noted that the selected artist or artist team will not have opportunities to influence final design plans for the pre-existing infrastructure in the Union Depot building, due to the level of completeness in design and construction. It should also be noted that the Union Depot renovation project has significant oversight from the Minnesota State Historic Preservation Office ("SHPO") and the City of Saint Paul's Heritage Preservation Commission ("HPC"). Artwork proposed on the site or exterior elevations require review by the HPC and SHPO while interior art proposals will require review by the SHPO.

Union Depot's head house and concourse are both listed on the National Register of Historic Places, are located within the local and National Register Lowertown Historic District, and are pivotal to the historic character of the Lowertown Historic District. In addition, Union Depot's train deck was recently determined to be eligible for listing on the National Register of Historic Places and has been determined significant in further interpreting the social and architectural character of the site and historic district. The following are important to keep in mind when considering art installations on or within a historic site and district:

1. Develop an understanding of the historical context in which the building was envisioned, designed and built, and be sensitive to the historic context of the site.
2. Identify principles that balance preserving/reinforcing the prominent features of the site while introducing a dynamic and vital public art component. Principles should include consideration of appropriate location and attachment methods, preserving important views of historic resources and features, as well as how

art could embody local themes that depict the shared past of the site, historic district, city or region.

3. To the extent possible, art proposals that foster educational opportunities about the cultural resources are also encouraged.

D. Project Information Contact

Members of the Union Depot Art Selection and Design Review Panel; employees or representatives of the Ramsey County Regional Railroad Authority; and Ramsey County personnel and elected officials are not authorized to discuss this Supplemental Call to Artists with interested artists or artist teams. All questions related to the Supplemental Call to Artists requirements and requests for clarification must be submitted in writing to the following person by 4 p.m. on October 26, 2012:

Susan Feuerherm
Division of Contract and Analysis Services
280 City Hall/Court House Bldg.
15 West Kellogg Blvd.
St. Paul, MN 55102

Questions may be faxed to (651) 266-8919 or emailed to susan.feuerherm@ci.stpaul.mn.us.

E. Pre-submission Conference & Site Tour

A pre-submission conference will be held at the Great Hall located in the Union Depot Building, 214 4th Street E., St. Paul, Minn., on Monday, October 22, 2012, at 10 a.m., followed by a walking tour of the Union Depot site. Attendance at the Pre-submission Conference is not mandatory, but interested artists are encouraged to attend.

II. Scope of Services

A. General

Artists or artist teams shall submit their application. The Union Depot Art Selection and Design Review Panel, comprised of artists, arts professionals, historic preservation experts, community members and project partners shall evaluate all responsive proposals. The artist or artist team selected as a result of this Supplemental Call to Artists will enter into an agreement with the RCRRA to create and submit design proposals consistent with its application, develop and submit final designs and detailed fabrication and installation plans, then complete the execution of the approved artwork commission.

B. Project Services

1. This Supplemental Call to Artists describes an opportunity for a public art installation within Union Depot's historic waiting room.

The commission resulting from this call will include design, fabrication and installation of artwork. Related services include, but are not limited to: conceptualization and design, including development of construction documents; specification of required equipment, materials and fabrication methods; identification of installation requirements; development of a budget identifying all associated costs; fabrication and installation.

2. Photos of the historic waiting room are attached to and made a part of this Supplemental Call to Artists as **Appendix B**.

3. Commission #5: Waiting Room Sequential Mural

Total commission budget: \$150,000

The west side of the historic waiting room is lined with a series of tall brick arches with windows in the upper portion. Along the 300-foot wall, every fifth arch contains no window and is instead a solid brick space measuring approximately 16-feet tall by approximately 5 1/2-feet wide. Six of these arches create an opportunity for a series of murals that will draw the public into the waiting room, and engage them in the important history of the site. Framing within the arches will be installed to support a surface on which an artist or artist team could create the painted murals.

The history of Union Depot is rich with important historical and cultural stories. People from a broad range of ethnic and cultural backgrounds are an essential part of this history, and in fact, to the history of how the Twin Cities developed. A goal of this artwork commission is to celebrate that multicultural history and provide the public with a greater appreciation of this human aspect of Union Depot.

A few examples of multicultural stories at Union Depot:

- a. The construction of the railroads and the development of the depot site in the late 1800s played a role in the settlement of Minnesota and had an impact on Native American communities.
- b. African Americans settling in the Twin Cities found jobs as porters (called "redcaps") at Union Depot. Those family-wage earning jobs impacted the ways in which local communities and neighborhoods took shape.
- c. Immigrants heading west arrived in Minnesota at Union Depot, which welcomed individuals from around the globe who would settle in this area and shape its future in unique ways.

- d. Soldiers deploying and returning from the world wars were an important part of Union Depot's history. Many soldiers left their families in Minnesota to go to war, and never returned. Sleeping quarters, medical rooms and a bowling alley were amenities over the decades for our nation's soldiers.
- 4. The murals could be done by a single artist, or by a team of up to six artists, producing one or more murals while working together for a cohesive vision.
- 5. The selected artist or artist team will be expected to consult with historical experts and members of the community to assist in providing cultural and historic context. It is likely that a community "storytelling" event will be held, in order to engage the community in a discussion of the human stories relating to Union Depot.
- 6. The selected artist or artist team may participate in community outreach activities that could include one-on-one interviews, neighborhood meetings and/or workshops as part of the design process. It is likely that presentations will be needed for the HPC and/or SHPO.
- 7. As indicated in the background section above (I.B.), construction and renovation work at Union Depot will be complete by the end of 2012. It is recognized that final installation of the public art will not be possible before the opening, given the timetable illustrated below.

III. Call to Artists Timetable

Call to Artists Issued	Week of September 25, 2012
Pre-submission Conference & Site Tour	10 a.m., October 22, 2012
Deadline for Written Questions	4 p.m., October 26, 2012
Written Responses Sent	4 p.m., October 31, 2012
Artist Applications Due	2 p.m., November 12, 2012
Interviews of Finalists	December 2012
Union Depot Multimodal Transit Hub Opening	December 2012
Agreements Executed/Design Notice to Proceed	Approx. January 2013
Schematic Designs Due	Approx. April 2013
Fabrication Notice to Proceed	Approx. May 2013

IV. Application Submission

A. Application Submission Process

- 1. Notice to Interested Artists
 - a. The RCRRA is not responsible for costs incurred by anyone responding to this Supplemental Call to Artists.

- b. The RCRRRA expressly reserves the right to amend or withdraw this Supplemental Call to Artists at any time and to reject any or all applications.
- c. The RCRRRA reserves the right to request additional information at any stage of the Supplemental Call to Artists evaluation process.

2. Questions

Responding artists/artist teams are to submit written questions related to the specific project requirements and the Supplemental Call to Artists process by 4 p.m. on October 26, 2012, to:

Susan Feuerherm
Division of Contract and Analysis Services
280 City Hall/Court House Bldg.
15 West Kellogg Blvd.
St. Paul, MN 55102

Questions may be faxed to 651-266-8919 or emailed to: susan.feuerherm@ci.stpaul.mn.us.

Written responses to all questions received on time will be available on Onvia Demandstar by 4 p.m. on October 31, 2012, in the form of addenda. Oral questions will not be accepted.

Responding artists/artist teams shall rely only on the provisions of this Supplemental Call to Artists and written addenda in preparing their applications.

B. Valid Application

- 1. In order to be considered valid, the application shall be in writing, submitted on time and in accordance with the sealed solicitation process of the Division of Contract and Analysis Services, and be signed by the artist or the artist team lead accountable for all representations.
- 2. Expressions of creativity in the content of the application are welcome; however, applications must comply with the following formatting requirements:
 - a. All pages must be three-hole punched for a standard loose-leaf binder, but the application shall not be bound or submitted in a binder.

- b. Do not use cardstock, unusually heavy paper, staples, paper clips or binders when assembling the application. Respondents should use double-sided printing in order to reduce use of paper. Color copies of applications are acceptable.
 - c. Only materials specifically requested should be included. Other materials will not be considered or reviewed by the Union Depot Art Selection and Design Review Panel.
3. The application must contain the following information, presented in the order shown:
- a. A completed Commission Opportunity Form, attached to and made a part of this Supplemental Call to Artists as **Appendix C.**
 - b. Cover Letter – Briefly discuss why the artist or artist team is best qualified to be chosen. Discuss how the artist(s) would approach the development of a design for the commission opportunity that would educate the public about history and culture. Discuss the artist's or artist team's demonstrated knowledge of the ethnic and cultural communities and histories that are significant to this Supplemental Call to Artists. Also indicate the availability of the artist(s) over the coming 12 months to undertake this project.
 - c. Resume – Include a professional resume for the responding artist or for each artist team member. Each resume must be typed and be a maximum of two pages in length.
 - d. Sample Images and Image List – Include a total of 10 Sample Images of past work by the submitting artist or artist team, (i.e., 10 images per application, not participant), numbered in the order of desired presentation. Please make note if images pertain to installations in historic sites. An additional 10 images can be included in the application if desired; however, this second set of images will be used only if requested by the Union Depot Art Selection and Design Review Panel. Sample Images should be presented on a CD in JPEG format. Digital files should be numbered sequentially, corresponding to the Image List. The CD must be clearly labeled with the artist's name or the names of the artist team members. **Only one CD is required.** The Image List should be numbered and annotated with the artist's name, title of the work, date the work was completed,

medium of work, location of the work, cost of the work, time period for completion of work, and a short description of the artwork.

- e. A maximum of three published reviews/articles about your work may be submitted with the application at your option.

C. Application Submission

1. Applications are due by 2 p.m. on November 12, 2012.

Submit to:

Division of Contract and Analysis Services
280 City Hall/Court House Bldg.
15 West Kellogg Blvd.
St. Paul, MN 55102

Faxed or emailed applications will not be accepted.

2. The CD containing Sample Images in JPEG format containing the information required in B. 3.d. above must be included only in the original application. An original plus eight copies must be submitted of all other components of the application. The Commission Opportunity Form must have the original signature of the artist or artist team lead that will be accountable for all representations. Unsigned applications will be considered invalid.
3. To facilitate application opening, the original only must be sealed in a separate envelope or box. The name, address, and RFP number must be clearly marked on the outside. The remaining copies may be wrapped or boxed together with similar identification information.
4. An application may be withdrawn on written request of the artist or artist team prior to the application due date.
5. Failure to submit an application on time shall constitute grounds for the rejection of the application.
6. All information included in the submitted application will be classified in accordance with Section 13.591 of Minnesota statutes governing data practices.

V. Evaluation and Contract Award

A. Evaluation

1. The RCRRA will oversee development and approval of commissions for Union Depot.
2. The RCRRA reserves the right to waive any minor irregularities in the Supplemental Call to Artists request process.
3. The RCRRA reserves the right to interview any or all responding artists or artist teams at its discretion. The RCRRA is not responsible for any costs incurred by the artists or artist teams in preparing for or participating in an interview.
4. The Union Depot Art Selection and Design Review Panel is comprised of artists, arts professionals, historic preservationists, project partners and community members.
5. The Union Depot Art Selection and Design Review Panel may elect to invite finalists to interview by phone or in person prior to awarding commissions.
6. The Union Depot Art Selection and Design Review Panel will submit its recommendations on artist(s) selection to the RCRRA.

B. Evaluation Criteria

The Union Depot Art Selection and Design Review Panel will review and evaluate applications based on the following criteria:

1. Aesthetic quality of previously completed art projects and commissions. If more than one artist is applying, this includes the aesthetic compatibility and cohesion of their work.
2. Demonstrated experience in developing artworks that educate the public about history and culture, and demonstrated knowledge of the ethnic and cultural communities and histories that are significant to this Supplemental Call to Artists.
3. Applicability and suitability of past work to this specific Union Depot commission opportunity, including work installed in buildings within a historic site or district.
4. Appropriateness of previously completed artworks to their sites, including a high level of craftsmanship and sensitivity to context, safety and scale.
5. Durability and suitability of materials used related to resistance to vandalism and minimization of maintenance requirements.
6. Experience working with the public and neighborhood communities.

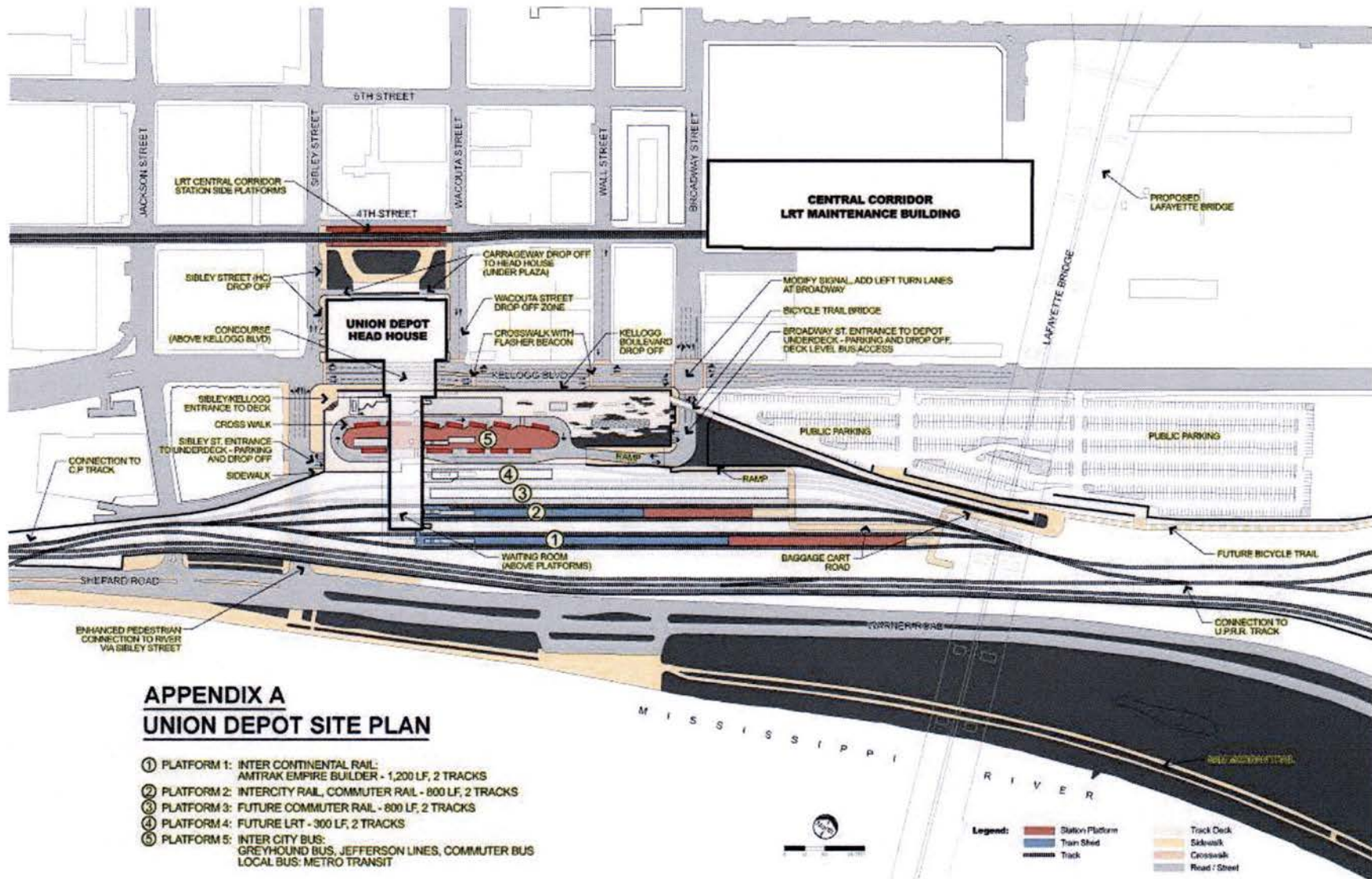
B. Contract

1. The resulting agreement to be executed between the selected artist or artist team and the RCRRA will be in the form of the Sample Agreement, including the Specific Federal Requirements, attached hereto and made a part of this Supplemental Call to Artists as **Appendix D**; and will include applicable provisions of this Supplemental Call to Artists and of the successful artist's or artists' application.
2. Commissions resulting from this Supplemental Call to Artists *that involve subcontracting* will be assigned a Disadvantaged Business Enterprise (DBE) goal that will be based on the proposed scope of the subcontracted work for the project. Applicable DBE policies and procedures are included as part of Exhibit 7 to **Appendix D** of this RFP.
3. The specific terms of each agreement will be negotiated by the artist or artist team and the RCRRA. The contract will, at minimum, include the following:
 - a. A description of services to include preparation and submission of schematic designs; submission of fabrication and materials specifications; submission of final construction drawings; fabrication; installation; and submission of any maintenance or operational requirements.
 - b. A requirement that if any of the contract work (such as installation) will be subcontracted, upon development of a DBE requirement by the Metropolitan Council following submission of the Schematic Design to the RCRRA, the selected artist or artist team demonstrate good faith efforts to meet the established DBE goal by either:
 - 1) Documenting the participation of specific DBEs to meet the goal; or
 - 2) Documenting adequate good faith efforts to meet the goal, even if the efforts were not successful in obtaining sufficient DBE participation to meet the goal.
 - c. A review and approval process for submissions.
 - d. Payment amount, with a breakdown of payments to be made to subcontractors, and a payment schedule.
 - e. Project Timeline.

4. A contract for a commission by an artist team will be in the name of the Applicant Artist identified on the Commission Opportunities Form.

VI. Appendices

- A. Union Depot Site Plan
- B. Photographs and Renderings of Historic Waiting Room
- C. Commission Opportunity Form
- D. Sample Agreement for Commission of Public Artwork

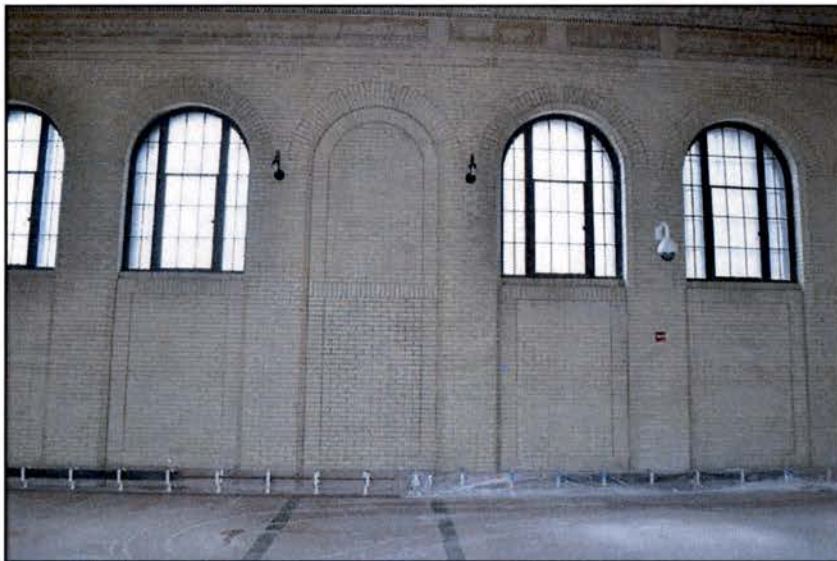


Appendix B

PHOTOGRAPHS AND RENDERINGS OF HISTORIC WAITING ROOM

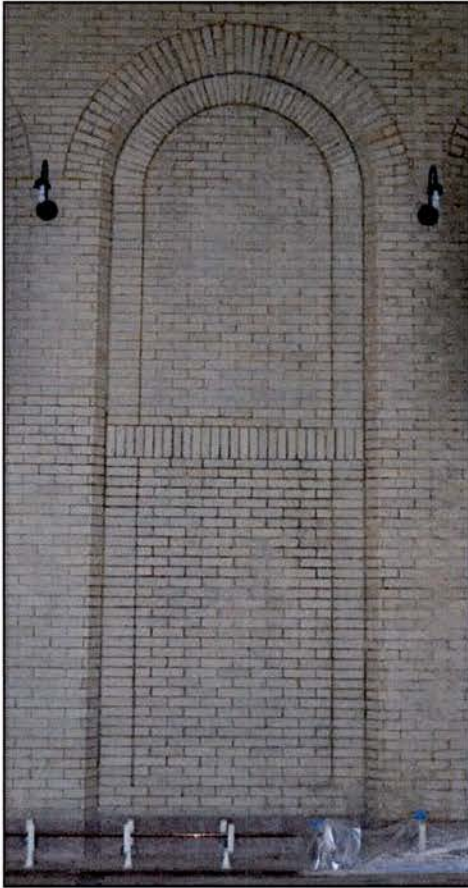


West side of historic waiting room facing north. Mural opportunity spaces are in tall, windowless arches.



Windowless brick arches fall in a pattern between four window arches along the entire 300-foot room.

(Historic waiting room photos continued.)



Straight-on view of mural opportunity arches. Murals would be mounted on backing framing designed to connect to bricks in mortar joints, to preserve integrity of historic brick work. The full waiting room (below) has dramatic skylights and many historic finishes.



(Historic waiting room photos continued.)



This panoramic view of the west side of the waiting room shows the six mural opportunity spaces. The curvature of the walls and ceiling are distorted because of the nature of the photograph.

Appendix C

COMMISSION OPPORTUNITY FORM



SUPPLEMENTAL CALL TO ARTISTS FOR A HISTORIC AND MULTICULTURAL PUBLIC ART COMMISSION AT UNION DEPOT

Attach as first page of the application.

Name of Individual Applicant or Name of Primary Applicant for Artist Team

Team Members

Primary Team Contact Name (if applicable)

Signature of Primary Team Contact

Individual or Primary Team Contact Telephone Number

Individual or Primary Team Contact Email Address

Individual or Primary Team Contact Mailing Address

RFP-RR291

Appendix D

(Sample Agreement for Commission of Public Artwork follows.)

AGREEMENT FOR COMMISSION OF PUBLIC ARTWORK

THIS AGREEMENT is entered into between the Ramsey County Regional Railroad Authority ("RCRRA"), a political subdivision of the State of Minnesota, with offices at Union Depot, 214 4th Street East, Suite 200, St. Paul, MN 55101 and ARTIST NAME, ADDRESS.

WHEREAS, the RCRRA has included Artwork Funding for the establishment and display of Artwork as part of the renovation and restoration of the Union Depot ("Project"); and

WHEREAS, the RCRRA issued a Supplemental Call to Artists for applications to design, execute, fabricate and/or install Artwork at Union Depot; and

WHEREAS, the Artist is a recognized artist whose work and reputation make the Artist uniquely qualified to create Artwork as part of the Project; and

WHEREAS, the Artist and the RCRRA wish to undertake the obligations expressed herein;

NOW, THEREFORE, in consideration of the above-stated premises and subject to the conditions hereinafter set forth, the parties agree as follows:

Article 1 Scope of Services

1.1 Artist's Obligations

- 1.1.1 The Artist shall perform all services and furnish all supplies, material and/or equipment as necessary for the design, fabrication, and installation of the Artwork described in **Exhibit 1**, attached to and made a part of this Agreement, at the location described in **Exhibit 1** ("Site"). Services shall be performed in a professional manner and in strict compliance with all terms and conditions in this Agreement.
- 1.1.2 The Artist shall determine the artistic expression, design, dimensions and materials of the Artwork, subject to review and acceptance by the RCRRA as set forth in this Agreement. To ensure that the Artwork as installed shall not interfere with the intended use of the Site, pedestrian and other traffic flow, parking, and safety devices and procedures at the Site, the Artist's proposal shall be reviewed by the RCRRA and its Consultants, as necessary, for approval by the RCRRA to ensure compliance with these objectives.
- 1.1.3 The Artist shall prepare the Artwork design and corresponding budget as provided in Section 1.3 of this Agreement for the approved proposal.
- 1.1.4 Prior to submitting a Schematic Design, the Artist shall travel to the Site to gain an understanding of the Site's unique characteristics and to coordinate with RCRRA staff, as appropriate, to communicate about the Artwork and to ensure appropriate integration and/or installation of the Artwork.

- 1.1.5 Throughout the Project, the Artist shall provide RCRRA staff sufficient detail to permit the RCRRA to determine compliance with applicable local, state or federal laws, ordinances and/or regulations, and to obtain any necessary approvals with the State Historic Preservation Office ("SHPO"), and the City of Saint Paul's Heritage Preservation Commission ("HPC").
- 1.1.6 The Artist shall complete the fabrication of the Artwork by the scheduled installation start date as provided in Section 1.4.2 of this Agreement.
- 1.1.7 The Artist shall secure any and all required licenses, permits and similar legal authorizations at the Artist's expense as may be necessary for the installation of the Artwork at the Site.
- 1.1.8 The Artist shall arrange the transportation and installation of the Artwork in consultation with RCRRA staff. If the Artist does not personally install the Artwork, the Artist shall supervise and approve the installation.
- 1.1.9 The Artist shall provide required insurance as specified in Article 6 and **Exhibit 2**, attached hereto and made a part of this Agreement.
- 1.1.10 The Artist shall provide a list of all subcontractors along with a copy of the agreement between the Artist and each subcontractor.
- 1.1.11 The Artist shall provide a maintenance manual with a description of all materials and products utilized in the Artwork and the required care and upkeep involved.
- 1.1.12 The Artist shall provide photographic documentation of the Artwork.
- 1.1.13 The Artist shall be available with reasonable advance notice for meetings, ceremonies and the like, as necessary.

1.2 RCRRA's Obligations

- 1.2.1 The RCRRA shall perform all obligations in strict compliance with all terms and conditions in this Agreement.
- 1.2.2 The RCRRA shall be responsible for providing the Artist, at no expense to the Artist, copies of existing designs, drawings, and reports; a list of required permits, licenses, and other authorizations; and other existing relevant data, if any, which is needed by the Artist in order to perform.
- 1.2.3 The RCRRA shall be responsible for compliance with applicable laws and regulations with the exception of required licenses, permits and similar authorizations required to be secured by the Artist under Section 1.1.6, and shall explain any limitations imposed by such laws and/or regulations to the Artist.

- 1.2.4 The RCRRA shall prepare the Site in accordance with the specifications detailed in the approved design concept in Section 1.3 of this Agreement. The Artist and RCRRA staff will cooperate to determine reasonable costs for those items that the RCRRA will be responsible for in order to prepare the Site for the timely transportation and installation of the Artwork. The RCRRA shall complete the Site preparations by the scheduled installation start date as provided in Section 1.4.2 of this Agreement or shall notify the Artist in writing of any delays.
- 1.2.5 The RCRRA shall provide and install a plaque on or near the Artwork containing a credit to the Artist substantially in the following form: [Artist's name, Artwork title, date of publication].
- 1.2.6 The RCRRA shall not permit any use of the Artist's name or misuse of the Artwork which would reflect discredit on the Artist's reputation as an artist or which would violate the spirit of the Artwork, should such use or misuse be within the RCRRA's control.
- 1.2.7 RCRRA staff shall be responsible for leading the Artist through the required review process. RCRRA staff shall be responsible for organizing and scheduling meetings with review entities such as the Union Depot Art Selection and Design Review Panel, the State Historic Preservation Office (SHPO) and the City of Saint Paul's Heritage Preservation Commission (HPC) and for providing the Artist written instructions for the materials required at such meetings should they be necessary.

1.3 Design

1.3.1. Concept/Schematic

- a. Within 60 days of the execution of this Agreement, the Artist shall submit to RCRRA staff the design concept (the "Schematic Design") in the form of detailed color drawings, models, and/or other documents as are required to present a meaningful representation of the Artwork. The Schematic Design will include: a description of the method by which the Artwork is to be fabricated and installed; a description of any operational, maintenance and conservation requirements for the Artwork; a description of the placement of the Artwork at the Site and any site preparations that may be required by the RCRRA including, but not limited to, any changes or modifications to any utility system or structure of the Site as necessary within a reasonable cost and as required by the RCRRA. The design concept shall include a description of all materials and products utilized in the Artwork and the required routine care and upkeep involved. The Schematic Design of the Artwork shall be incorporated into and made a part of this Agreement by reference as **Exhibit 1**.
- b. The proposed Artwork must be durable, taking into consideration that the Site is an unsecured public space that may be exposed to elements such as weather, temperature variation, and considerable movement of people and

equipment. Artist must ensure that all maintenance requirements will be reasonable in terms of time and expense.

- c. Prior to submitting the Schematic Design, the Artist shall visit, examine, research and consider the Site and surrounding area. The Artist shall also discuss with RCRRA staff the most appropriate method to inform the content of the Schematic Design. If applicable, the Artist shall consult with representatives of the community and consider their input and concerns.
- d. The Schematic Design must include sufficient detail to permit the RCRRA, SHPO, and HPC to determine compliance with applicable local, state or federal laws, ordinances and/or regulations.
- e. When the Artist submits the Schematic Design to RCRRA staff for approval, the Artist shall also submit a detailed budget for approval for the design, fabrication and installation of the Artwork, including costs for Site preparation, as described in Section 1.4.1 of this Agreement.

1.3.2 Approval

- a. Within 15 days after the Artist submits the Schematic Design, the Union Depot Art Selection and Design Review Panel will convene and review the submitted Schematic Design. RCRRA staff shall notify the Artist whether it approves or disapproves of the Schematic Design. The RCRRA shall have discretion to approve outright, approve with conditions, or disapprove the Schematic Design.
- b. RCRRA staff shall notify the Artist of any revisions to the Schematic Design determined by the RCRRA to be necessary for the Artwork to comply with applicable laws, ordinances and/or regulations and other reasons including, but not limited to, ensuring the physical integrity of the Artwork or its installation at the Site. If agreed upon by both parties, such revisions will become a part of the accepted Schematic Design.

1.3.3 Redesign

- a. If the Union Depot Art Selection and Design Review Panel disapproves of the Schematic Design, RCRRA staff will notify the Artist in writing of the reasons for such disapproval. In such event, the Artist will submit a Revised Design within 20 days after RCRRA staff has notified the Artist of its disapproval, addressing the identified reasons. This process shall continue until the Union Depot Art Selection and Design Review Panel approves the Revised Design. The Artist will not be paid additional fees for the Revised Design(s).
- b. The Revised Design will reflect changes made to address the stated reasons for disapproval, as well as any adjustments in the budget or

schedule that may be necessary. RCRRA staff shall notify the Artist in writing whether the Union Depot Art Selection and Design Review Panel approves or disapproves of the Revised Design within 30 days after the Artist submits the Revised Design.

- c. If the Artist refuses to revise the Schematic Design pursuant to Section 1.3.3. a., or if the Artist fails to adequately revise the Schematic Design in the judgment of the Union Depot Art Selection and Design Review Panel and RCRRA staff, this Agreement shall terminate and the parties shall be under no further obligation to each other as of the date of such termination. The effective date of termination shall be the date the RCRRA submits its written disapproval of the Revised Design to the Artist. The RCRRA shall submit to the Artist a written termination notice with the disapproval. The termination notice shall advise the Artist that this Agreement has been terminated pursuant to this Article. The termination notice shall notify the Artist that the Artist is entitled to retain the compensation paid prior to the termination date, and that the Parties are under no further obligation to each other. The termination notice shall confirm that the Artist shall retain ownership of all Schematic Designs, Revised Designs and renderings thereof submitted hereunder.

1.3.4 Final Design/Construction Documents

- a. The Artist shall prepare structural drawings for the approved design ("Final Design") detailing every physical feature of the construction of the Artwork and its integration with the Site. These drawings and supplementary documents shall indicate any issues involved in the construction, integration and maintenance of the Artwork, and shall identify any subcontractors needed to work on the project including the work to be performed by the subcontractors.
- b. Where appropriate, the Artist shall present such drawings to a qualified engineer, licensed by the State of Minnesota and paid by the Artist, for certification that the Artwork will be of adequate structural integrity, and the Artist shall provide the RCRRA with such certification, signed and stamped by the licensed engineer. The Artist shall present the Final Design to a qualified conservator, designated by RCRRA staff at no cost to the Artist, who will make recommendations on the maintenance of the Artwork. The Artist shall provide a written copy of the conservator's recommendations to RCRRA staff.
- c. The Artist shall provide a detailed narrative Description of the Artwork with explicit detail regarding the overall form or design, scale, dimensions, color, and surface treatment of the Artwork. The Description of the Artwork shall be incorporated into and made a part of this Agreement by reference as **Exhibit 3**.

1.4 Budget/Payment Schedule

1.4.1 Budget

- a. The budget to be prepared by the Artist pursuant to the provisions of this Section shall include all goods, services and materials, with such costs itemized. Calculation of the budget will take into consideration the possible inflation of service and material costs between the date of execution of this Agreement and the anticipated completion date. The Artist shall include a contingency amount between 5% and 10% to be used towards unforeseen costs directly related to the fabrication and/or installation of the project.
- b. Upon approval by the RCRRA staff, the Budget shall be incorporated into and made a part of this Agreement by reference as **Exhibit 4**.
- c. The Artist shall keep a log of the Artist's Project hours as well as the hours of work performed by subcontractors, and shall retain all original receipts pertaining directly to the Project.
- d. The Artist shall notify the RCRRA, in writing, prior to the use of any contingency funds for any purpose.
- e. Upon completion of the Project, and prior to Transfer of Title of the Artwork from the Artist to the RCRRA, the Artist shall provide written notice of any unspent funds from the contingency funds. These unspent funds shall be retained by the Artist.
- f. If the Artist incurs costs in excess of the approved budget, the Artist shall pay such excess from the Artist's own funds unless the Artist had previously obtained written approval for a modified budget incorporating such costs from the RCRRA.

1.4.2 Payment Schedule

- a. A schedule for payment to the Artist is included in **Exhibit 4**.

1.5 Project Construction Schedule and Progress Reports

- 1.5.1 The Artist shall submit a proposed schedule for the fabrication and installation of the Artwork, including a schedule for the submission of progress reports and inspections if any, to the RCRRA for approval. Upon approval, the schedule shall be incorporated into and made a part of this Agreement by reference as **Exhibit 5**.
- 1.5.2 The Schedule may be amended only by written agreement of the parties. Any approved revised schedule shall replace and supersede the original schedule as **Exhibit 5**.

1.6 Fabrication Stage

- 1.6.1 The Artist shall fabricate and install the Artwork in substantial conformity with the Final Design. The Artist may not deviate from the approved Final Design without written approval of RCRRA staff.
- 1.6.2 The Artist shall take reasonable measures to protect or preserve the integrity of the Artwork such as the application of protective or anti-graffiti coatings, if applicable, unless the RCRRA disapproves. If the Artwork is being constructed on-site, the Artist shall avoid creating nuisance conditions arising out of the Artist's operations. Prior to requesting authorization to transport and install the Artwork, the Artist shall be required to provide the RCRRA with a list of all workers or subcontractors and equipment to be used along with the hours of operation and the scope of work to be performed on site. All subcontractors must provide proof of insurance as described in **Exhibit 2** prior to entering the Site.
- 1.6.3 The Artist will inform RCRRA of the intent to enter into subcontracts for any part of the fabrication of the Artwork. Subcontracted work will be assigned a Disadvantaged Business Enterprise (DBE) goal that will be based on the proposed scope of the subcontracted work for the project. Applicable DBE policies and procedures are attached hereto and made a part of this Agreement as **Exhibit 7**.
- 1.6.4 RCRRA staff shall have the right to review the Artwork at reasonable times during the fabrication thereof upon reasonable notice. At the RCRRA's request, the Artist shall provide clear photographic documentation of the progress of fabrication of the Artwork.
- 1.6.5 If RCRRA staff, upon review of the Artwork, determines that the Artwork does not conform to the Final Design, the RCRRA reserves the right to notify the Artist in writing of the deviations and that the RCRRA intends to withhold the next payment.
- 1.6.6 The Artist will inform the RCRRA of the planned method for achieving conformance to the Final Design, will promptly cure the deviations and will notify the RCRRA in writing of completion of the cure. RCRRA staff or the RCRRA's Consultants, as necessary, shall promptly review the Artwork, and upon approval shall release the next payment. If the Artist disputes the RCRRA's determination of deviation, the Artist shall promptly submit reasons in writing to the RCRRA within 10 days of the RCRRA's notification. The RCRRA shall make reasonable efforts to resolve the dispute with the Artist in good faith. However, final determination as to whether the Artist has complied with the terms of this Agreement shall remain with the RCRRA.
- 1.6.7 The Artist shall notify the RCRRA in writing when fabrication of the Artwork has been completed, and when the Artwork is ready for delivery and installation at the Site if the Artwork was fabricated off-site. Artist shall also provide RCRRA staff with clear photographic documentation of the completed Artwork.

- 1.6.8 At the RCRRA's option, RCRRA staff or the RCRRA's Consultants, as necessary, shall inspect the Artwork within 10 days after receiving notification pursuant to paragraph 1.6.6, prior to installation, to determine that the Artwork conforms to the Final Design and to give final approval of the Artwork. The RCRRA shall not unreasonably withhold final approval of the fabricated Artwork. In the event that the RCRRA does withhold final approval, the RCRRA shall submit the reasons for such disapproval in writing within 10 days of examining the fabricated Artwork. The Artist shall then have 30 days from the date of the RCRRA's notice of the disapproval to make the necessary adjustments to the fabricated Artwork in accordance with such writing. The Artist shall not be penalized for any delay in the delivery and installation of the Artwork to the Site unless the Artist has willfully and substantially deviated from the Final Design without the prior approval of the RCRRA. The Artist shall then be held responsible for any expenses incurred in correcting such deviation.
- 1.6.9 RCRRA staff shall promptly notify the Artist of any delays, if such delays are caused by the RCRRA, impacting installation of the Artwork. Any additional storage fees incurred as a result of such delays are the responsibility of the RCRRA.
- 1.6.10 The Artist shall be required to inspect the Site prior to the transportation and installation of the Artwork and shall notify the RCRRA of any adverse Site conditions that will impact the installation of the Artwork which are in need of correction.

1.7 Changes to Design

- 1.7.1 Changes to the approved design may not be executed prior to submission of the proposed changes in writing to the RCRRA for further review and approval. The Artist must provide a detailed description of any significant changes in the artistic expression, design, dimensions and materials of the Artwork that is not permitted by nor in substantial conformity with the already approved design. Such notice will also include a detailed description of any additional costs that may be incurred or changes in the budget. A significant change is any change which materially affects installation, scheduling, site preparation or maintenance of the Artwork or the concept of the Artwork as represented in the Design.
- 1.7.2 If RCRRA staff approves the changes, the RCRRA shall promptly notify the Artist in writing. RCRRA staff will also make the required presentations to the approval bodies.
- 1.7.3 If RCRRA staff disapproves of the changes, the RCRRA shall promptly notify the Artist in writing and the Artist shall continue to fabricate the Artwork in substantial conformity with the Design.

- 1.7.4 The Artist's fee shall be equitably adjusted for any increase or decrease in the Artist's cost of, or time required for, performance of any services under this Agreement as a result of revisions made to the Design under Section 1.7.1. Any claim of the Artist for adjustment under this paragraph must be asserted in writing within 20 days after the date of the approval of the revision by the RCRRA.

1.8 Installation

- 1.8.1 Upon the RCRRA's final approval of the fabricated Artwork as being in conformity with the Final Design, the Artist shall deliver and install the completed Artwork to the Site in accordance with the agreed-upon schedule.
- 1.8.2 The Artist will coordinate closely with RCRRA staff to ascertain that the Site is prepared to receive the Artwork. The Artist must notify the RCRRA of any adverse conditions at the Site that would affect or impede the installation of the Artwork.
- 1.8.3 The Artist is responsible for timely installation of the Artwork. The Artist will confer and coordinate with RCRRA staff to ensure timely coordination with the RCRRA's Project construction team. Site access procedures will be identified in coordination with the development of the Artwork design and installation schedule. The Artist may not install the Artwork until authorized to do so by RCRRA staff.
- 1.8.4 The Artist will inform RCRRA of the intent to enter into subcontracts for any part of the installation of the Artwork. Subcontracted work will be assigned a Disadvantaged Business Enterprise (DBE) goal that will be based on the proposed scope of the subcontracted work for the project. Applicable DBE policies and procedures are set forth in **Exhibit 7**.
- 1.8.5 The Artist and any assistants or installation subcontractors shall, at the discretion of the RCRRA, participate in safety training classes for the purpose of accessing construction zones or RCRRA rail rights-of-way.
- 1.8.6 The Artist shall supervise the installation of the Artwork.
- 1.8.7 Upon installation of the Artwork, the Artist shall provide the RCRRA with written instructions for the appropriate maintenance and preservation of the Artwork along with product data sheets for any material or finish used.
- 1.8.8 Upon written acceptance of the installation by the RCRRA in accordance with the provisions of Section 1.9 herein, the Artwork shall be deemed to be in the custody of the RCRRA for purposes of Article 4 and Article 6 of this Agreement.
- 1.8.9 The RCRRA is responsible for the proper care and maintenance of the Artwork after written acceptance of the installation

1.9 Approval and Acceptance

- 1.9.1 The Artist shall notify the RCRRA in writing when all services have been completed in substantial conformity with the requirements of this Agreement and that the Artwork is ready for approval and acceptance.
- 1.9.2 RCRRA staff shall promptly notify the Artist of its final acceptance of the Artwork within 10 days after the Artist submitted written notice pursuant to Section 1.9.1 above. The effective date of final acceptance shall be the date the RCRRA submits written notice to the Artist of its final acceptance of the Artwork. The final acceptance shall be understood to mean that the RCRRA acknowledges completion of the Artwork in substantial conformity with the Final Design, and that the RCRRA confirms that all services as required of the Artist have been completed.
- 1.9.3 If the RCRRA disputes that all the services have been performed, the RCRRA shall notify the Artist in writing of those services the Artist has failed to perform within 10 days after the Artist submitted written notice pursuant to Section 1.9.1 above. The Artist shall promptly perform those services indicated by the RCRRA.
- 1.9.4 If the Artist disputes the RCRRA's determination that not all services have been performed, the Artist shall submit reasons in writing to the RCRRA within 30 days of the RCRRA's notification. The RCRRA shall make reasonable efforts to resolve the dispute with the Artist in good faith. However, final determination as to whether all services have been performed shall remain with the RCRRA.
- 1.9.5 Upon the resolution of any disputes that arise under this Section 1.9, RCRRA staff shall notify the Artist of its final acceptance of the Artwork.
- 1.9.6 After final acceptance of the Artwork, the Artist shall be available at such time(s) as may be mutually agreed upon by RCRRA staff and the Artist to attend any public meetings and community outreach functions, as well as any inauguration or presentation ceremonies relating to the dedication of the Artwork. The RCRRA shall be solely responsible for coordinating public information materials and activities related to public presentations.

Article 2 Taxes

Any state or federal sales, use or excise taxes, or similar charges relating to the services and materials under this Agreement shall be paid by the Artist in a timely fashion and in accordance with all legal requirements. The RCRRA shall report payments made to the Artist annually to the Internal Revenue Department in a 1099 statement.

Article 3 Term of Agreement

3.1 Duration

This Agreement shall be effective on the date that this contract has been signed by both parties, and, unless terminated earlier pursuant to the provisions of this Agreement, shall extend until the completion of obligations by both parties. Provisions of this Agreement

that by their nature extend beyond the term of the Agreement shall survive the termination of this Agreement. Extension of time for performance hereunder may be granted upon the request of one Party and the consent of the other thereto, which consent shall not be unreasonably withheld. Such extension shall be in writing, signed by both parties, and shall replace the prior Project Schedule as describe in Section 1.5.2.

3.2 Force Majeure

The RCRRA shall grant to the Artist a reasonable extension of time in the event that conditions beyond the Artist's control render timely performance of the Artist's services impossible or unduly burdensome. All such performance obligations shall be suspended for the duration of the condition. Both parties shall take all reasonable steps during the existence of the condition to assure performance of their contractual obligations when the condition no longer exists. Failure to fulfill contractual obligations due to conditions beyond either Party's reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such conditions.

Article 4 Risk of Loss

The Artist shall bear the risk of loss or damage to the Artwork until the RCRRA's final acceptance of the Artwork under Section 1.9. The Artist shall take such measures as are reasonably necessary to protect the Artwork from loss or damage. The RCRRA shall bear the risk of loss or damage to the Artwork prior to final acceptance only if, during such time, the partially or wholly completed Artwork, by written agreement of the RCRRA, is in the custody, control or supervision of the RCRRA or its agent(s) for the purposes of transporting, storing, installing or performing other services to the Artwork.

Article 5 Artist's Representations and Warranties

5.1 Warranties of Title

5.1.1 The Artist represents and warrants that:

- a. The Artwork is solely the result of the artistic effort of the Artist.
- b. Except as otherwise disclosed in writing to the RCRRA, the Artwork is unique and original and does not infringe upon any copyright or the rights of any person.
- c. The Artwork (or duplicate thereof) has not been accepted for sale elsewhere.
- d. The Artist has not sold, assigned, transferred, licensed, granted, encumbered or utilized the Artwork or any element thereof or any copyright related thereto which may affect or impair the rights granted pursuant to this Agreement.
- e. The Artwork is free and clear of any liens from any source whatsoever.

- f. All Artwork created by the Artist under this Agreement, whether created by the Artist alone or in collaboration with others, shall be wholly original with the Artist and shall not infringe upon or violate the rights of any third party.
- g. The Artist has the full power to enter into and perform this Agreement and to make the grant of rights contained in this Agreement.
- h. All services performed hereunder shall be performed in accordance with all applicable laws, regulations, ordinances, etc. and with all necessary care, skill, and diligence.

5.1.2 These representations and warranties shall survive the termination or expiration of this Agreement.

5.2 Warranties of Quality and Condition

The Artist represents and warrants that:

- 5.2.1 All work will be performed in accordance with professional "workmanlike" standards and free from defective or inferior materials and workmanship (including any defects consisting of "inherent vice," or qualities that cause or accelerate deterioration of the Artwork) for two years after the date of final acceptance by the RCRRA under Section 1.9.
- 5.2.2 The Artwork and the materials used are not currently known to be harmful to public health and safety.
- 5.2.3 Reasonable maintenance of the Artwork will not require procedures substantially in excess of those described in the maintenance and preservation recommendations submitted by the Artist pursuant to Section 1.8.7.
- 5.2.4 If within two years after Final Acceptance the RCRRA observes any breach of warranty described in this Section 5.2 that is curable by the Artist, the Artist shall, at the request of the RCRRA, cure the breach promptly, satisfactorily and consistent with professional conservation standards, at no expense to the RCRRA. The RCRRA shall give notice to the Artist of such breach with reasonable promptness.
- 5.2.5 If within two years after Final Acceptance the RCRRA observes a breach of warranty described in this Section 5.2 that is not curable by the Artist, the Artist is responsible for reimbursing the RCRRA for damages, expenses and loss incurred by the RCRRA as a result of the breach. However, if the Artist disclosed the risk of this breach in the Proposal and the RCRRA accepted that it may occur, it shall not be deemed a breach for purposes of this Section 5.2 of this Agreement.

5.2.6 If after two years after Final Acceptance the RCRRA observes any breach of warranty described in this Section 5.2 that may be curable by the Artist, the RCRRA, at its discretion, has the option to either:

- a. Contact the Artist to make or supervise repairs or restorations at a reasonable fee; or
- b. Seek the services of a qualified restorative conservator and maintenance expert.

5.3 Acceptable Standard of Display

5.3.1 The Artist represents and warrants that:

- a. General routine cleaning and repair of the Artwork and any associated working parts and/or equipment will maintain the Artwork within an acceptable standard of public display.
- b. Foreseeable exposure to the elements and general wear and tear will cause the Artwork to experience only minor repairable damages and will not cause the Artwork to fall below an acceptable standard of public display.
- c. With general routine cleaning and repair, and within the context of foreseeable exposure to the elements and general wear and tear, the Artwork will not experience conditions that do not fall within an acceptable standard of public display, including mold, rust, fracturing, staining, chipping, tearing, abrading and peeling.
- d. To the extent the Artwork incorporates products covered by a manufacturer's warranty, the Artist shall provide copies of such warranties to the RCRRA.

5.3.2 The foregoing warranties are conditional, and shall be voided by the failure of the RCRRA to maintain the Artwork in accordance with the Artist's specifications and the applicable conservation standards. If the RCRRA fails to maintain the Artwork in good condition, the Artist, in addition to other rights or remedies the Artist may have in equity or at law, shall have the right to disown the Artwork as the Artist's creation and request that all credits be removed from the Artwork and reproductions thereof until the Artwork's condition is satisfactorily repaired.

Article 6 Liability/Insurance

6.1 General

6.1.1 The Artist acknowledges that, except as otherwise provided herein, until final acceptance of the Artwork by the RCRRA under Section 1.9, any injury to property or persons caused by the Artist's Artwork or any damage to, theft of, vandalism to, or acts of God affecting the Artist's Artwork are the sole responsibility of the Artist, including, but not limited to, any loss occurring during the creation, storage, transportation or delivery of the Artist's Artwork, regardless of where such loss occurs.

6.1.2 Insurance requirements are set forth in **Exhibit 2**.

6.2 Indemnity

6.2.1 The Artist shall indemnify, defend and hold harmless the RCRRA and officials, employees and agents (each a "Covered Person") from and against all liabilities, obligations, losses, damages, judgments, costs or expenses (including legal fees and costs of investigation) (collectively "Losses") arising from, in connection with or caused by:

- a. Any personal injury or property damage caused, directly or indirectly, by any act or omission of the Artist; or
- b. Any infringement of patent, copyright, trademark, trade secret or other proprietary right caused by the Artist.

6.2.2 Notwithstanding the foregoing, Artist shall have no obligation under this Section with respect to any Losses that are caused solely by the active negligence or willful misconduct of the Covered Party and is not contributed to by any act or omission (including any failure to perform any duty imposed by law) by the Artist.

6.2.3 The Artist acknowledges and agrees that its obligation to defend in this Section:

- a. Is an immediate obligation, independent of its other obligations hereunder;
- b. Applies to any Losses which actually or potentially fall within the scope of this Section, regardless of whether the applicable allegations are or may be groundless, false or fraudulent; and
- c. Arises at and continues after the time the Losses are tendered to the Artist.

Article 7 Ownership and Intellectual Property Rights

7.1 Title

Title to the Artwork shall transfer to the RCRRA upon the RCRRA's written final acceptance and payment for the Artwork pursuant to Article 1 and **Exhibit 4**. The Artist shall provide the RCRRA with a Transfer of Title in substantially the form attached hereto and made a part of this Agreement as **Exhibit 6**.

7.2 Ownership of Documents

One set of presentation materials prepared and submitted under this Agreement shall be retained by the RCRRA for possible exhibition and to hold for permanent safekeeping.

7.3 Copyright Ownership

The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C. § 101 et seq., as the sole author of the Artwork for the duration of the copyright.

7.4 Reproduction Rights

- 7.4.1 In view of the intention that the final Artwork shall be unique, the Artist shall not make any additional exact duplicate two or three-dimensional reproductions of the final Artwork, nor shall the Artist grant permission to others to do so except with the written permission of the RCRRA. However, nothing shall prevent the Artist from creating future Artworks in the Artist's manner and style of artistic expression.
- 7.4.2 The Artist grants to the RCRRA and its assigns an irrevocable license to make two-dimensional reproductions of the Artwork for non-commercial purposes, including, but not limited to, reproductions used in brochures, media publicity, and exhibition catalogues or other similar publications provided that these rights are exercised in a tasteful and professional manner.
- 7.4.3 All reproductions by the RCRRA shall contain a credit to the Artist in substantially the following form: [Artist's name, Artwork title, date of publication].
- 7.4.4 The Artist shall use the Artist's best efforts in any public showing or resume use of reproductions to give acknowledgment to the RCRRA in substantially the following form: "Artwork commissioned by the Ramsey County Regional Railroad Authority, St. Paul, MN."
- 7.4.5 The Artist shall, at the Artist's expense, cause to be registered with the United States Register of Copyrights, a copyright in the Artwork in the Artist's name.
- 7.4.6 If the RCRRA wishes to make reproductions of the Artwork for commercial purposes, including, but not limited to, tee shirts, post cards and posters, the Parties shall execute a separate agreement to address the terms of the license granted by the Artist and the royalty the Artist shall receive.
- 7.4.7 Third Party Infringement. The RCRRA is not responsible for any third party infringement of the Artist's copyright and not responsible for protecting the intellectual property rights of the Artist.

Article 8 Artist's Rights

8.1 General

- 8.1.1 The Artist retains all rights under state and federal laws including §106A of the Copyright Act of 1976.
- 8.1.2 The RCRRA agrees that it will not intentionally alter, modify, change, destroy or damage the Artwork without first consulting with the Artist.
- 8.1.3 If any alteration or damage to the Artwork occurs, the Artist shall have the right to disclaim authorship of the Artwork in addition to any remedies the Artist may have in law or equity under this contract. Upon written request, the RCRRA shall

remove the identification plaque and all attributive references to the Artist at its own expense within 30 days of receipt of the written request. No provision of this Agreement shall obligate the RCRRA to alter or remove any such attributive reference printed or published prior to the RCRRA's receipt of such written request. The Artist may take such other action as the Artist may choose in order to disavow the Artwork.

8.2 Alterations of Site or Removal of Artwork

8.2.1 The RCRRA shall notify the Artist of any proposed significant alteration of the Site that would affect the intended character and appearance of the Artwork. The RCRRA shall make a good faith effort to consult with the Artist in the planning and execution of any such alteration. The RCRRA shall make a reasonable effort to maintain the integrity of the Artwork.

8.2.2 The RCRRA agrees not to arbitrarily remove or relocate the Artwork without first making a good faith effort to contact the Artist. The Artist shall not unreasonably withhold approval of removal or relocation of the Artwork. Should the Artist agree to such removal or relocation, the Artist shall provide the RCRRA with written handling instructions. In the event that the Artist is deceased or unable to otherwise give the Artist's consent, the current owner of the copyright of the Artwork shall not unreasonably withhold permission, keeping in mind the intentions of the Artist at the time of commission and fabrication.

8.2.3 This clause is intended to replace and substitute for the rights of the Artist under the Visual Artists' Rights Act to the extent that any portion of this Agreement is in direct conflict with those rights. The parties acknowledge that this Agreement supersedes that law to the extent that this Agreement is in direct conflict therewith.

Article 9 Permanent Record

The RCRRA shall maintain on permanent file a record of this agreement and of the location and disposition of the Artwork.

Article 10 Artist as an Independent Contractor

The Artist agrees to perform all Artwork under this Agreement as an independent contractor and not as an agent or employee of the RCRRA. The Artist acknowledges and agrees that the Artist shall not hold himself or herself out as an authorized agent of the RCRRA with the power to bind in any manner. The Artist shall provide the RCRRA with the Artist's Tax Identification Number and any proof of such number as requested by the RCRRA.

Article 11 Nondiscrimination

The Artist shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, disability, ethnicity, or national origin, in connection with or related to the performance of this Agreement.

Article 12 Assignment of Artwork

The Artwork and services required of the Artist are personal and shall not be assigned, sublet or transferred. Any attempt by the Artist to assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect unless prior written consent is given by the RCRRA. The RCRRA shall have the right to assign or transfer any and all of the RCRRA's rights and obligations under this Agreement if ownership of the Site is transferred.

Article 13 Suspension/Termination

- 13.1 Either Party may suspend this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such Party's reasonable control such as, but not limited to, acts of nature; war or warlike operations; superior governmental regulation or control, public emergency or strike or other labor disturbance. Notice of suspension of this Agreement shall be given to the other Party in writing not less than 15 days prior to the effective date of the suspension. If the suspension continues for more than 90 days, either party may terminate this Agreement without cause. If this Agreement is terminated, the RCRRA shall pay the Artist for services performed and costs incurred that cannot be eliminated prior to the date of termination, consistent with the schedule of payments set forth in **Exhibit 4** of this Agreement.
- 13.2 The RCRRA may terminate this Agreement without cause upon 15 days written notice to the Artist. The RCRRA shall pay the Artist for services performed and costs incurred that cannot be eliminated prior to the date of termination, consistent with the schedule of payments set forth in **Exhibit 4** of this Agreement.
- 13.3 If the Artist willfully or negligently fails to fulfill in a timely and proper manner, or otherwise violate any of the covenants, agreements or stipulations material to this Agreement, the RCRRA shall thereupon have the right to terminate this Agreement by giving written notice to the Artist of its intent to terminate, specifying the grounds for termination. The Artist shall have 30 days after the effective date of the notice to cure the default. If it is not cured by that time, this Agreement shall terminate and the Artist shall return to the RCRRA all payments received from the RCRRA in excess of expenses already incurred. The Artist shall provide an accounting of such expenses along with the reimbursement payment. All finished and unfinished drawings, sketches, photographs and other Artwork products prepared and submitted or prepared for submission by the Artist under this Agreement shall be retained by the Artist. The RCRRA shall retain the right to have the Artwork completed, fabricated, executed, delivered and installed. However, the Artist shall retain the copyright in the Artwork and all rights under Article 7 and Article 8.
- 13.4 Upon notice of termination, the Artist and his or her subcontractors shall cease all activities under this Agreement.

Article 14 Death or Incapacity

If the Artist becomes unable to complete this Agreement due to death or incapacitation, such death or incapacity will not be deemed a breach of this Agreement or a default on the part of the

Artist for the purpose of Article 13. However, nothing in this Article shall obligate the RCRRA to accept the Artwork. In the event of death of the Artist, this Agreement shall terminate as of the date of death; in the event of incapacity, the Agreement shall terminate upon expiration of 90 days of incapacity. The RCRRA shall pay the Artist, the Artist's heirs, or the Artist's estate, as appropriate, for all services and work delivered in a satisfactory manner and in accordance with the provisions of this Agreement prior to the Artist's death or first day of incapacity.

Article 15 Compliance with Applicable Law

The Artist 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 Artist's performance of the provisions of this Agreement, including the provisions of the specific **Federal Requirements**, attached hereto and made a part of this Agreement as **Exhibit 8**. It shall be the obligation of the Artist 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.

Article 16 Notices and Documents

Notices required under this Agreement shall be delivered personally or through the [registered or certified mail, return receipt requested] mail, postage prepaid, to the addresses stated below, or to any other address as may be noticed by a Party pursuant to the provisions of this Article:

For the RCRRA:

Josh Collins or successor
Ramsey County Regional Railroad Authority
Suite 6560 RCGC-West
50 W. Kellogg Blvd
St. Paul, MN 55102

For the Artist:

ARTIST NAME
ARTIST ADDRESS

Notice shall be deemed effective on the date personally delivered or, if mailed, on the date the return receipt is signed.

Article 17 Waiver

The Parties agree that a waiver of any breach of violation of any term or condition of this Agreement shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term of condition.

Article 18 Audit

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

- 18.2 The Artist shall maintain all books, documents, records and accounting procedures and practices of the Artist relating to this Agreement for a period of six years from the date of transfer of title following acceptance and final payment is made. Those records subject to an audit shall be maintained until the audit is resolved, even if this period extends beyond the six years stated. All records shall be made available for inspection or audit, at any time during regular business hours, upon written request by the RCRRA's General Counsel or designated representative, the State Auditor or the County's ultimate funding sources.

Article 19 Data Practices

All data collected, created, received, maintained or disseminated for any purpose in the course of the Artist's performance of this 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.

Article 20 Conflict of Interest

The Artist and the RCRRA shall avoid all conflicts of interest or appearance of conflicts of interest in the performance of this Agreement.

Article 21 Arbitration

- 21.1 If, during the creation of the Artwork, its installation and subsequent existence, either Party breaches this Agreement, each Party agrees to submit to arbitration upon the request of the other, provided that the breach is not cured within a reasonable time under Section 13.3 of this Agreement.
- 21.2 If an ambiguity arises regarding this Agreement upon which the parties cannot agree or a dispute arises as to the completion of a provision, the Parties shall submit the matter to arbitration.
- 21.3 Each Party agrees to be responsible for its own attorney's fees and costs.

Article 22 Amendments

No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing and signed by both Parties hereto in the form of an amendment to this Agreement.

Article 23 Conflicts of Law

If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall be held by a court of competent jurisdiction or arbitration panel or mediation procedure to be in conflict with the laws, rules, and/or regulations of the United States or the State of Minnesota, invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby to the extent the remainder of the terms, covenants, conditions or provisions of this Agreement are capable of execution.

Article 24 Interpretation of Agreement; Venue

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

Article 25 Prompt Payment

Payment of interest on late payments and disputes regarding payments shall be governed by the provisions of Minn. Stat. Section 471.425.

Article 26 Contractor Certification Regarding Debarment, Suspension, and Responsibility (If applicable)

Federal Regulation 45 CFR 92.35 prohibits the RCRRA from purchasing goods or services with federal money from vendors who have been suspended or debarred by the federal government.

By signing this Agreement, the Artist certifies that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transacting business by or with any federal, state or local governmental department or agency; and
2. Have not within a three-year period preceding this Agreement:
 - a. 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;
 - b. violated any federal or state antitrust statutes; or
 - c. committed embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; and
3. Are not presently indicted or otherwise criminally or civilly charged by a governmental entity for:
 - a. commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction;
 - b. violating any federal or state antitrust statutes; or
 - c. committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; and
4. Have not had one or more public transactions terminated with in the preceding three years for cause or default; and
5. Shall not knowingly enter into any transaction with a subcontractor who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and that they will require any

subcontractor that receives more than \$100,000 to make a similar certification as set forth herein; and

6. Are not aware of any information and possess no knowledge that any subcontractor(s) that will perform work pursuant to this Agreement are in violation of any of the certifications set forth above; and
7. Shall immediately give written notice to the RCRRA should the Artist come under investigation for allegations of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local government) transaction; violating any federal or state antitrust statutes; or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

Article 27 Non-Conforming Services

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

Article 28 Unavailability of Funding

The purchase of goods or services from the Artist under this Agreement is subject to the availability and provision of funding from the United States, the State of Minnesota, or other funding sources, and the appropriation of funds from the RCRRA Board. The RCRRA may immediately terminate this Agreement if the funding for the Artwork is no longer available or is not appropriated by the RCRRA Board. Upon receipt of the RCRRA's notice of termination of the Agreement the Artist shall take all actions necessary to discontinue further commitments of funds to the Agreement. Termination shall be treated as termination without cause and will not result in any penalty or expense to the RCRRA.

Article 29 Prevailing Wage

The Artist and all subcontractors shall conform to the labor laws of the State of Minnesota, and all other laws, ordinances, and legal requirements affecting the work in Ramsey County and Minnesota. The minimum wage rate per hour to be paid for each classification of work shall be the union wage rate in the locality of the project for those classifications over which the unions have jurisdiction and the local prevailing rate for those classifications of work in the localities over which the unions do not have jurisdiction.

Article 30 Respectful Workplace and Violence Prevention

The Artist shall make all reasonable efforts to ensure that the Artist's employees, officials and subcontractors do not engage in violence while performing under this Agreement. Violence, as defined in the Ramsey County Respectful Workplace and Violence Prevention Policy, means 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.

Article 31 Subcontractor Payment

The Artist shall pay any subcontractor within ten days of the Artist's receipt of payment from the RCRRA for undisputed services provided by the subcontractor. The Artist 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 Artist shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from the Artist must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

Article 32 Lobbying

For all contracts involving over \$100,000 in federal funds, the Artist must sign the Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements, attached hereto and made a part of this Agreement as **Exhibit 8**.

Article 33 Entire Agreement

This Agreement, including the exhibits, comprises all of the covenants, promises, agreements, and conditions between the parties. No verbal agreements or conversations between the Parties prior to the execution of this Agreement shall affect or modify any of the terms or obligations.

WHEREFORE, this Agreement is duly executed on the last date written below.

**RAMSEY COUNTY REGIONAL
RAIL AUTHORITY**

Jim McDonough, Chair
Ramsey County Regional Railroad Authority

Bonnie Jackelen, Chief Clerk
Board of County Commissioners

Date: _____

Approval recommended:

Timothy Mayasich, Director
Ramsey County Regional Rail Authority

Approved as to form and insurance:

Assistant County Attorney

ARTIST FIRM

By: _____
Print Name: _____
Its: TITLE _____

Date: _____

Exhibit 1
Concept/Schematic Design

(To be developed and incorporated into the contract as provided in Section 1.3.1 of the forgoing contract to which this exhibit is attached.)

Exhibit 2
Insurance Requirements

The Artist shall obtain and maintain for the duration of the contract, an insurance policy or policies for the protection of both the **Artist** and the **RCRRA**. The **RCRRA** requires certification of insurance coverage from all Artists/subArtists, Sub-contractors and suppliers before commencing work. All subcontractors used for the installation shall provide certificates of insurance evidencing General Liability, Workers Compensation, and automobile coverage prior to installation with the RCRRA and Ramsey County as property manager added as an additional insured with respect to installation of the artwork.

Please carefully review the requirements outlined.

IT IS HIGHLY RECOMMENDED THAT YOU CONFER WITH YOUR INSURANCE BROKER/AGENT OR OTHER INSURANCE COMPANY REPRESENTATIVE, BEFORE SUBMITTING YOUR BID, TO DETERMINE THE AVAILABILITY AND APPLICABLE COST, IF ANY, OF CERTIFICATES, ENDORSEMENTS, COVERAGES, AND LIMITS REQUIRED.

1. MINIMUM SCOPE AND EXTENT OF COVERAGE

A. GENERAL LIABILITY

Commercial General Liability, ISO coverage form number **CG 00 01** ("occurrence" basis).

\$ 1,000,000 limit per occurrence for bodily injury, personal injury, and property damage; **\$1,000,000** annual aggregate

The Ramsey County Regional Rail Authority, its commissioners, officers, officials, agents, and employees, shall be endorsed as **additional insureds** by ISO Form **CG 20 26 -- ADDITIONAL INSURED -- DESIGNATED PERSON OR ORGANIZATION** or equivalent. As additional insureds, they shall be covered as to work performed by or on behalf of the **Artist** or as to liability which arises out of **Artist's** activities or resulting from the performance of services or the delivery of goods called for by the **Contract**.

B. AUTOMOBILE LIABILITY (IF APPLICABLE)

Business Auto or Personal Automobile Liability insurance
\$1,000,000 limit per occurrence covering bodily injury and property damage.

C. WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY (IF APPLICABLE)

Statutory Workers' Compensation insurance for all states where Proposer has work

locations and standard Employer's Liability insurance, *if required by state law.*

D. PROFESSIONAL LIABILITY – REGISTERED STRUCTURAL ENGINEER
(IF APPLICABLE)

D.1 Per Claim \$1,000,000
Aggregate Limit: \$2,000,000

D.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 Agreement; and 2) evidence of coverage shall be provided for three years beyond expiration of this Agreement.

E. PROPERTY

The Artist shall maintain property coverage on an all-risk basis and shall add the RCRRA as a loss payee as the RCRRA's interest in the Artwork may appear. This interest shall be based on the payments made according to **Exhibit 4** for the commissioned Artwork as defined in the contract between the Artist and the RCRRA. The Artist shall keep this policy in effect until the RCRRA's final acceptance of the Artwork under Article 4 Risk of Loss.

2. INSURER QUALIFICATIONS/ACCEPTABILITY

The insurance required hereunder shall be issued by an **A.M. Best "A-" rated, Class VI** insurance company licensed to conduct insurance business in the state of Minnesota.

3. VERIFICATION OF INSURANCE COVERAGE

Prior to commencing work, the **Artist** shall furnish the **RCRRA** with CERTIFICATE(S) OF INSURANCE (including a Professional Liability insurance certificate from Registered Structural Engineer) and with any applicable original endorsements evidencing the required insurance coverage. A person authorized by that insurer to bind coverage on its behalf must sign the insurance certificates and endorsements. All certificates and endorsements received by the **RCRRA** are subject to review and approval by the Ramsey County Attorney's Office. The **RCRRA** reserves the rights to require complete, certified copies of all required policies at any time. If the scope of this contract will exceed one (1) year—or, if any of **Artist's** applicable insurance coverage expire prior to completion of the work or services required under this contract—the **Artist** will provide a renewal or replacement certificate before continuing work or services hereunder.

4. NON-WAIVER

Nothing in this Agreement shall constitute a waiver by the **RCRRA** of any statutory or common law immunities, limits, or exceptions on liability.

Exhibit 3
Final Design

(To be developed and incorporated into the contract as provided in Section 1.3.4 of the forgoing contract to which this exhibit is attached)

[This exhibit will identify the location of the Artwork and will provide a detailed narrative describing the proposed artwork with explicit detail regarding the overall form or design, scale, dimensions, color and surface treatment of the Artwork.]

Exhibit 4
Artwork Budget

(To be developed and incorporated into the contract as provided in Section 1.4.1 of the forgoing contract to which this exhibit is attached.)

Fee and Payment Schedule

The RCRRA shall pay the Artist a fixed fee of AMOUNT OF CONTRACT (\$X), which shall constitute full and complete compensation for all the services performed and materials furnished by the Artist under this Agreement. Payment shall be made in accordance with the following scheduled installments, each installment representing full and final payment for all services and materials provided prior to payment thereof:

- a. \$X upon the execution of this Agreement, recognizing that the Artist will invest time and expense in preparing the Design as set forth in Section 1.3 of the Agreement;
- b. \$X upon the RCRRA's notification to the Artist of its approval of the Final Design as set forth under Section 1.3 and issuance of a Notice to Proceed with Fabrication and Installation;
- c. \$X within 30 days after the Artist notifies the RCRRA that the Artwork fabrication is 50% complete and provides photographic or other reasonable documentation as requested by the RCRRA;
- d. \$X within 30 days after the Artist notifies the RCRRA that the Artwork is fabricated and ready for delivery and installation at the Site as set forth under Section 1.5(f);
- e. \$X within 30 days after final acceptance of the Artwork by the RCRRA as set forth under Section 1.8(e).

Exhibit 5

Project Schedule

(To be developed and incorporated into the contract as provided in Section 1.5.1 of the forgoing contract to which this exhibit is attached.)

Exhibit 6
Transfer of Title

STATE OF MINNESOTA
COUNTY OF RAMSEY

TRANSFER OF TITLE

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the undersigned Artist located at the address noted below does hereby sell, transfer and convey to the RCRRA, located in St. Paul, Minn., its assigns and successors, all right, title and interest in the ownership of the Artwork commissioned by the Ramsey County Regional Railroad Authority and as described in the agreement between the parties.

Title: _____.

Location: _____.

IN WITNESS WHEREOF, the Artist has executed this written transfer of title on this
____ day of _____, 20__.

ARTIST

ADDRESS

WITNESS

Sworn to and subscribed
before me this ____ day
of _____, 20__.

NOTARY PUBLIC

My Commission Expires:
(NOTARY SEAL)

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Exhibit 7

Federal DBE Requirements

1. **Artwork Disadvantaged Business Enterprise Requirements** (FTA Funding with DBE Goal – APPLICABLE TO SUBCONTRACTED WORK ONLY)

A. General Requirement. This contract is funded in part with a grant from the Federal Transit Administration (FTA), whose funds are administered locally by the Metropolitan Council ("Council"), and provided to the RCRRA through a sub-recipient grant agreement. For this project, the Disadvantaged Business Enterprise (DBE) requirements of the Transportation Equity Act for the 21st Century (TEA-21) and 49 CFR part 26 will apply only to subcontracted portions of the Artwork project. Under 49 CFR section 26.51, the Council will establish a goal for DBE participation for work that will be subcontracted by the Artist. The DBE goal will be based on the proposed scope of subcontracted work for the Artwork.

Selected artists who subcontract work will be required to make good faith efforts to meet the established DBE goal. Good faith efforts may be demonstrated by either:

- 1) documenting the participation of specific DBEs to meet the goal; or
- 2) documenting adequate good faith efforts to meet the goal, even if the efforts were not successful in obtaining sufficient DBE participation to meet the goal.

B. Documenting Good Faith Efforts

Participation of DBE. If the Artist will be using a DBE the Artist must list all firms, if any, whose participation is committed to be credited toward meeting the DBE goal. All DBE firms which are listed must, as of the date the information is provided by the Artist to the RCRRA, be:

- 1) certified by the Minnesota Unified Certification Program (MnUCP) as a DBE; or
- 2) certified by any other United States Department of Transportation (USDOT) recipient and then certified by the MnUCP; or
- 3) included on the MnUCP **Disadvantaged Business Enterprise (DBE) Directory**.

All of the firms on this listing shall be considered "currently certified" for the purposes of proposal submittal. This listing is available from the Council and can also be found at the following website:

<http://www.dot.state.mn.us/civilrights/ucpdirectory.html>

Adequate Good Faith Efforts. If the Artist will not be using a DBE, the Artist must show that it took all necessary and reasonable steps to achieve a DBE goal which, by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if it was not fully successful.

The Council's DBE Liaison Officer will determine whether the Artist made sufficient good faith efforts to meet the goal in accordance with the guidelines set forth in 49 CFR section 26.53, and Appendix A thereto.

Compliance will be determined based on a review of documentation of the following types of activities:

- 1) Soliciting through all reasonable and available means (e.g. attendance at pre-proposal meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the subcontracted work related to the Artwork. The Artist must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The Artist must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
- 2) Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the Artist might otherwise prefer to perform these work items with its own forces. The Artist is not required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
- 3) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state and Federal offices of minority/women business assistance; and other organizations as allowed on a case-by-case basis to provide assistance in the solicitation of DBEs.

Exhibit 8

Specific Federal Requirements

(continued on following eight pages)

SPECIFIC FEDERAL REQUIREMENTS

FTA-1 Fly America Requirements. The Contractor agrees to comply with 49 U.S.C. § 40118 (the "Fly America Act") in accordance with the General Services Administration's regulations at 41 C.F.R. part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

FTA-2 Energy Conservation. The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the federal Energy Policy and Conservation Act.

FTA-3 Access to Records and Reports. The Contractor agrees to provide the Council, the FTA Administrator, the Comptroller General of the United States, and any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The Contractor also agrees, pursuant to 49 C.F.R. § 633.15, to provide the FTA Administrator or the Administrator's authorized representatives, including any project management oversight (PMO) contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. § 5302(a)(1), which is receiving federal financial assistance through the programs described at 49 U.S.C. §§ 5307, 5309, or 5311.

The Contractor agrees to permit any of the foregoing parties to reproduce such documents by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. In addition to any other requirements for maintenance of project records and documents in this contract, the Contractor agrees to maintain such records and documents until the Council, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives have disposed of all litigation, appeals, claims or exceptions arising from the performance of this contract.

FTA-4 Federal Changes. The Contractor shall at all times comply with the required FTA clauses set forth in this contract and with all applicable FTA regulations, policies, procedures and directives including, without limitation, those listed directly or by reference in the Master Agreement between the Council and FTA, as they may be amended or promulgated from time to time during the term of this contract. The Contractor's failure to so comply shall constitute a material breach of this contract.

FTA-5 Recovered Materials. The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. § 6962), including but not limited to the regulatory provisions of 40 C.F.R. part 247, and Executive Order 12873, as they apply to the procurement of the items designated in subpart B of 40 C.F.R. part 247.

FTA-6 No Obligation by the Federal Government. The Council and the Contractor acknowledge and agree that, notwithstanding any concurrence by the federal government in or approval of the solicitation or award of this contract, absent the express written consent by the federal government, the federal government is not a party to this contract and shall not be subject to any obligations or liabilities to the Council, the Contractor, or any other party (whether or not a party to the contract) pertaining to any matter resulting from this contract. The Contractor agrees to include the preceding clause in each subcontract under this contract and that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

FTA-7 Program Fraud and False or Fraudulent Statements or Related Acts. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.*, and USDOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this contract. Upon execution of this contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Federal Government reserves the right to impose the penalties of 18 U.S.C. § 1001, 49 U.S.C. § 5307(k)(1), 49 U.S.C. § 5323(l) or other applicable federal law on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above language in each subcontract under this contract and that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

FTA-8 Civil Rights. The following requirements apply to this contract:

- 1. Nondiscrimination.** In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d *et seq.* and USDOT regulations "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of

Title VI of the Civil Rights Act," 49 C.F.R. part 21, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable federal implementing regulations and other implementing requirements FTA may issue.

2. Equal Employment Opportunity. The following equal employment opportunity requirements apply to this contract:

a. Race, Color, Creed, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of this contract. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

b. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

c. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, pertaining to

employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. Inclusion in Subcontracts. The Contractor agrees to include the requirements of this Section FTA-8 in each subcontract under this contract, modified only to identify the subcontractor that will be subject to the provisions.

FTA-9 Disadvantaged Business Enterprise ("DBE")

1. Nondiscrimination. Pursuant to 49 C.F.R. § 26.13, the Contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the Council deems appropriate. The Contractor shall include this requirement in all subcontracts pursuant to this contract.

2. Prompt Payment. The Contractor agrees to pay subcontractors within 10 calendar days of the Contractor's receipt of payment from the Council for undisputed services provided by the subcontractor. The Contractor agrees to pay subcontractors all undisputed retainage payments within 10 calendar days of the Contractor's receipt of payment of retainage from the Council. The Contractor shall not postpone or delay any undisputed payments owed subcontractors without good cause and without prior written consent of the Council. The Contractor agrees to include in all subcontracts a provision requiring the use of appropriate alternative dispute resolution mechanisms to resolve payment disputes. The Contractor will not be reimbursed for work performed by subcontractors unless and until the Contractor ensures that subcontractors are promptly paid for work they have performed. Failure to comply with the provisions of this section may result in the Council finding the Contractor in noncompliance with the DBE provisions of this contract.

FTA-10 Incorporation of FTA Terms. Specific provisions in this contract include, in part, certain standard terms and conditions required by USDOT, whether or not expressly set forth in the contract provisions. All contractual provisions required by USDOT, as set forth in 49 C.F.R. § 18.36 and FTA Circular 4220.1F, are hereby incorporated by reference. Notwithstanding anything to the contrary in this contract, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Council requests which would cause the Council to be in violation of the FTA terms and conditions.

FTA-10a National Intelligent Transportation Systems Architecture and Standards. To the extent applicable, the Contractor agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and to comply with FTA Notice, "FTA National ITS Architecture Policy on Transit

Projects" 66 Fed. Reg. 1455 *et seq.*, January 8, 2001, and other Federal requirements that may be issued.

FTA-11 Clean Water. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 *et seq.* The Contractor agrees to report each violation to the Council and understands and agrees that the Council will, in turn, report each violation as required to assure notification to the FTA and the appropriate Environmental Protection Agency (EPA) Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

FTA-12 Certification of Restrictions on Lobbying; Disclosure. The Contractor certifies that no federal appropriated funds have been paid or will be paid by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an 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 cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement. The certification of this compliance ("Lobbying Restriction Certification") submitted by the Contractor in connection with this project is incorporated into, and made a part of, this agreement.

The Contractor further certifies that, 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 or any federal 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 cooperative agreement, the Contractor shall complete and submit to the Council, Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor certifies that it will require the language of this certification be included in the award documents for any subcontracts equal to or in excess of \$100,000.00 under this agreement, and that all subcontractors shall certify and disclose accordingly to the Contractor.

The certifications referred to in this section (including the "Lobbying Restriction Certification" submitted by the Contractor in connection with this project and incorporated in, and made a part of, this agreement) are material representations of fact upon which the Council relies when this contract is made.

FTA-13 Clean Air. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.* The Contractor agrees to report each violation to the Council and understands and agrees that the Council will, in turn, report each violation as required to assure notification to the FTA and the appropriate Environmental Protection Agency (EPA) Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

FTA-14 Suspension and Debarment. This contract is a covered transaction for the purposes of 2 C.F.R. part 1200. By executing this contract, the Contractor certifies that none of the Contractor, its principals, as defined at 2 C.F.R. § 180.995, or affiliates, as defined at 2 C.F.R. § 180.905, are disqualified or excluded as defined at 2 C.F.R. §§ 180.935 and 180.940. The certification in this clause is a material representation of fact relied upon by the Council. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to Council, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 C.F.R. part 180, subpart C throughout the term of this contract. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

FTA-15 [Reserved].

FTA-16 [Reserved].

FTA-17 Buy America. The Contractor agrees to comply with 49 U.S.C. § 5323(j) and 49 C.F.R. part 661, which provide that federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. § 5323(j)(2)(C) and 49 C.F.R. § 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

FTA-18 Cargo Preference. The Contractor agrees: (a) to use privately-owned United States-Flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; (b) to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill of lading in English for each shipment of cargo described in the preceding paragraph (a) to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the Council (through the Contractor in the case of a lower-tier participating subcontractors bill of lading); and (c) to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

FTA-19 [Reserved].

FTA-20 Contract Work Hours and Safety Standards Act.

(1) **Overtime Requirements.** No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek, unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) **Violation; Liability for Unpaid Wages; Liquidated Damages.** In the event of any violation of the clause set forth in paragraph (1) of this section, the Contractor and any subcontractor responsible for a violation shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) **Withholding for Unpaid Wages and Liquidated Damages.** The Council shall, upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of the Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) **Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

(5) **Safety Standards.**

(i) **General Requirement.** The Contractor agrees to comply with section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 3704, and applicable Department of Labor regulations, "Safety and Health Regulations for Construction" 29 C.F.R. part 1926. Among other things, the Contractor agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions.

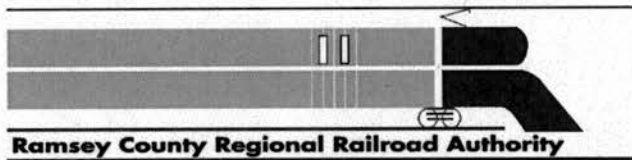
(ii) **Subcontracts.** The Contractor also agrees to include the requirements of this paragraph (5) in each subcontract. The term "subcontract" under this paragraph (5) is considered to refer to a person who agrees to perform any part of the labor or material requirements of a contract for construction, alteration or repair. A person who undertakes to perform a portion of a contract involving the furnishing of supplies or materials will be considered a "subcontractor" under this paragraph (5) if the work in question involves the performance of construction work and is to be performed: (1) directly on or near the construction site, or (2) by the employer for the specific project on a customized basis. Thus, a supplier of materials which will become an integral part of the construction is a "subcontractor" if the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the work involved may be said to be construction activity. If the goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a "subcontractor." The requirements of this paragraph (5) do not apply to contracts or subcontracts for the purchase of supplies or materials or articles normally available on the open market.

FTA-21 [Reserved]

FTA-22 Pre-Award and Post Delivery Audit Requirements. The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. part 663 and to submit the following certifications:

1. Buy America Requirements. The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

2. Solicitation Specification Requirements. The Contractor shall submit evidence that it will be capable of meeting the bid specifications.



2

REQUEST FOR ACTION

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

Regional Railroad Authority Meeting Date: **09/25/2012**

Regional Railroad Authority Meeting Date:

SUBJECT: Release of Solicitation Document Seeking Artists for Small-Scale Public Art Commissions at Union Depot

EXECUTIVE SUMMARY:

The Federal Transit Administration (FTA) strongly encourages its funded major construction projects to include a public art program within the project capital costs. FTA's reasoning for this investment is stated in Circular C9400.1A-Federal Transit Administration Design and Art in Transit Projects:

"The visual quality of the nation's transportation systems has a profound impact on transit patrons and the community at large. Mass transit systems should be positive symbols in the community, attracting local riders, tourists and the attention of decision makers for local, regional, national and international events. Good design and art can improve the appearance and safety of a facility, give vibrancy to its public spaces and make patrons feel welcome. Good design and art will also contribute to the goal that transit facilities help to create livable communities."

FTA guidelines state that the public art budget should at a minimum be one half of one percent of construction costs, but should not exceed five percent of construction costs. "One percent for art" is a common practice for governmental organizations. The proposed budget for public art at the Union Depot remains at \$1.25 million, which represents slightly less than one percent of construction costs (0.84 percent).

(The Executive Summary is continued on the following page)

ACTION REQUESTED:

Authorize the issuance of a Supplemental Call to Artists (Request for Proposals) for Small-Scale Public Art Commissions at Union Depot in accordance with Ramsey County policies and procedures on Requests for Proposals, with direction to staff to return to the Ramsey County Regional Railroad Authority with a selection of artists for contracting authorization, and informational updates at milestones throughout the process.

SUBJECT: Release of Solicitation Document Seeking Artists for Small-Scale Public Art Commissions at Union Depot

(Executive Summary continued from previous page)

Subrecipient Grant Agreement MN-04-0031 with the Metropolitan Council, approved by the RCRRA in December 2011, will provide \$1 million towards public art at the Union Depot. Ramsey County Regional Railroad Authority ("RCRRA") funds in the amount of \$250,000 will provide the balance. In August 2012, the RCRRA approved contracts with four artists which accounted for \$1.05 million of the \$1.25 million budget. The balance of the budget is represented in this solicitation, and the proposed Supplemental Call to Artists for a Multicultural and Historic Public Art Commission at Union Depot.

	FTA funds	RCRRA funds	TOTAL
Previous four commissions	\$840,000	\$210,000	\$1,050,000
Multicultural/historical commission	\$120,000	\$30,000	\$150,000
* <i>Small-scale commissions</i>	\$40,000	\$10,000	\$50,000
TOTAL	\$1,000,000	\$250,000	\$1,250,000

*** = This action.**

The purpose of this Supplemental Call to Artists (Request for Proposals) is to invite artists to submit applications for consideration for small-scale artwork commissions throughout the Union Depot site. These small-scale commissions will be accessible to emerging artists who do not have extensive experience with large-scale public art projects. By asking that the application include a statement or representation of the project concept, we hope to encourage the opportunity for selection of these emerging artists.

FTA provides guidelines on the process by which artists should be selected; RCRRA staff recommends the suggested FTA process be followed. This will involve re-engaging the seven member panel—the Union Depot Art Selection and Design Review Panel—composed of artists, arts professionals, historic preservationists, project partners and community representatives. The panel will review applications to this Supplemental Call to Artists (Request for Proposals) using the criteria listed in the Supplemental Call to Artists (Request for Proposals), and select finalists who will be invited to submit a more refined design concept and budget proposal, for which a \$1,000 design fee will be provided. Due to FTA and Metropolitan Council funding processes, these funds will come from the approved Union Depot Capital Project Budget, and will not exceed \$10,000.

The Union Depot Art Selection and Design Review Panel will review these refined concepts and recommend artists (or artist teams) to the RCRRA for contracting authorization. The number of selected projects will depend on the quality and budgets of the best shortlisted proposals. The total budget for these small-scale opportunities will not exceed \$50,000, and will be divided among the selected projects.

It is anticipated that selected finalists will enter into design, fabrication and installation contracts with the RCRRA in January 2013. RCRRA staff will provide informational updates to the RCRRA at milestones throughout the process.

SUBJECT: Release of Solicitation Document Seeking Artists for Small-Scale Public Art Commissions at Union Depot

ATTACHMENTS:

Supplemental Call to Artists for Small-Scale Public Art Commissions at the Union Depot

PREVIOUS ACTION:

RCRRA previously approved Subrecipient Grant Agreement MN-04-0031 with the Metropolitan Council, which will provide 80 percent of the funding towards public art at the Union Depot.

On February 7, 2012, Resolution R12-13 authorized the issuance of a Call to Artists (Request for Proposals) for Public Art Commissions at the Union Depot in accordance with Ramsey County policies and procedures on Requests for Proposals, with direction to staff to return to the Ramsey County Regional Railroad Authority with a selection of artists for contracting authorization.

On August 7, 2012, Resolutions R12-31, R12-32, R12-33 and R12-34 approved contracts with four artist teams in the total amount of \$1,050,000 for the commission of public art at Union Depot.

COUNTY MANAGER'S COMMENTS:

Issuance of this solicitation document requires approval of the RCRRA Board and is consistent with the County's commitment to an open, fair and competitive solicitation process.

SUBJECT: Release of Solicitation Document Seeking Artists for Small-Scale Public Art Commissions at Union Depot

Regional Railroad Authority – Authorized Signature	Date
	9/19/12

Budgeting & Accounting – Authorized Signature	Date
	9/17/12

County Attorney – Authorized Signature	Date
	9/19/12

Property Management – Authorized Signature	Date

Information Services – Authorized Signature	Date

Other – Authorized Signature	Date

DRAFT RESOLUTION

WHEREAS, The Ramsey County Regional Railroad Authority, along with the Federal Transit Administration, recognizes the importance of public art to the overall success and viability of the The Union Depot Multi-Modal Transportation and Transit Hub ("Union Depot"); and

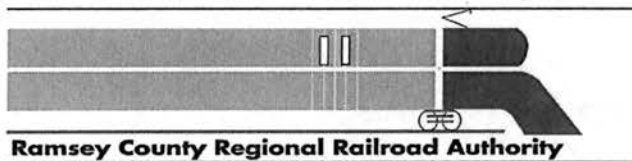
WHEREAS, The Federal Transit Administration's recognition of importance is coupled with a commitment of \$1 million in funding towards the public art program; and

WHEREAS, Public art provides a unique opportunity to recognize and celebrate the rich histories of the Union Depot, St. Paul and the Lowertown neighborhood; and

WHEREAS, Public art opportunities at Union Depot should include opportunities for emerging artists whose creative work can play an integral role in creating a powerful impact at Union Depot; and

WHEREAS, Public art at Union Depot will complement the power of the existing architectural elements, supporting the Union Depot as a destination community space, while serving to enhance the enjoyment of those passing through the public spaces; Now, Therefore, Be It

RESOLVED, The Ramsey County Regional Railroad Authority authorizes the issuance of a Supplemental Call to Artists (Request for Proposals) for Small-Scale Public Art Commissions at Union Depot in accordance with Ramsey County policies and procedures on Requests for Proposals, with direction to staff to return to the Ramsey County Regional Railroad Authority with a selection of artists for contracting authorization, and informational updates at milestones throughout the process.



2

REQUEST FOR ACTION

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

Regional Railroad Authority Meeting Date: 09/25/2012

Regional Railroad Authority Meeting Date:

SUBJECT: Release of Solicitation Document Seeking Artists for Small-Scale Public Art Commissions at Union Depot

EXECUTIVE SUMMARY:

The Federal Transit Administration (FTA) strongly encourages its funded major construction projects to include a public art program within the project capital costs. FTA's reasoning for this investment is stated in Circular C9400.1A-Federal Transit Administration Design and Art in Transit Projects:

"The visual quality of the nation's transportation systems has a profound impact on transit patrons and the community at large. Mass transit systems should be positive symbols in the community, attracting local riders, tourists and the attention of decision makers for local, regional, national and international events. Good design and art can improve the appearance and safety of a facility, give vibrancy to its public spaces and make patrons feel welcome. Good design and art will also contribute to the goal that transit facilities help to create livable communities."

FTA guidelines state that the public art budget should at a minimum be one half of one percent of construction costs, but should not exceed five percent of construction costs. "One percent for art" is a common practice for governmental organizations. The proposed budget for public art at the Union Depot remains at \$1.25 million, which represents slightly less than one percent of construction costs (0.84 percent).

(The Executive Summary is continued on the following page)

ACTION REQUESTED:

Authorize the issuance of a Supplemental Call to Artists (Request for Proposals) for Small-Scale Public Art Commissions at Union Depot in accordance with Ramsey County policies and procedures on Requests for Proposals, with direction to staff to return to the Ramsey County Regional Railroad Authority with a selection of artists for contracting authorization, and informational updates at milestones throughout the process.

SUBJECT: Release of Solicitation Document Seeking Artists for Small-Scale Public Art Commissions at Union Depot

(Executive Summary continued from previous page)

Subrecipient Grant Agreement MN-04-0031 with the Metropolitan Council, approved by the RCRRA in December 2011, will provide \$1 million towards public art at the Union Depot. Ramsey County Regional Railroad Authority ("RCRRA") funds in the amount of \$250,000 will provide the balance. In August 2012, the RCRRA approved contracts with four artists which accounted for \$1.05 million of the \$1.25 million budget. The balance of the budget is represented in this solicitation, and the proposed Supplemental Call to Artists for a Multicultural and Historic Public Art Commission at Union Depot.

	FTA funds	RCRRA funds	TOTAL
Previous four commissions	\$840,000	\$210,000	\$1,050,000
Multicultural/historical commission	\$120,000	\$30,000	\$150,000
* <i>Small-scale commissions</i>	\$40,000	\$10,000	\$50,000
TOTAL	\$1,000,000	\$250,000	\$1,250,000

*** = This action.**

The purpose of this Supplemental Call to Artists (Request for Proposals) is to invite artists to submit applications for consideration for small-scale artwork commissions throughout the Union Depot site. These small-scale commissions will be accessible to emerging artists who do not have extensive experience with large-scale public art projects. By asking that the application include a statement or representation of the project concept, we hope to encourage the opportunity for selection of these emerging artists.

FTA provides guidelines on the process by which artists should be selected; RCRRA staff recommends the suggested FTA process be followed. This will involve re-engaging the seven member panel—the Union Depot Art Selection and Design Review Panel—composed of artists, arts professionals, historic preservationists, project partners and community representatives. The panel will review applications to this Supplemental Call to Artists (Request for Proposals) using the criteria listed in the Supplemental Call to Artists (Request for Proposals), and select finalists who will be invited to submit a more refined design concept and budget proposal, for which a \$1,000 design fee will be provided. Due to FTA and Metropolitan Council funding processes, these funds will come from the approved Union Depot Capital Project Budget, and will not exceed \$10,000.

The Union Depot Art Selection and Design Review Panel will review these refined concepts and recommend artists (or artist teams) to the RCRRA for contracting authorization. The number of selected projects will depend on the quality and budgets of the best shortlisted proposals. The total budget for these small-scale opportunities will not exceed \$50,000, and will be divided among the selected projects.

It is anticipated that selected finalists will enter into design, fabrication and installation contracts with the RCRRA in January 2013. RCRRA staff will provide informational updates to the RCRRA at milestones throughout the process.

SUBJECT: Release of Solicitation Document Seeking Artists for Small-Scale Public Art Commissions at Union Depot

ATTACHMENTS:

Supplemental Call to Artists for Small-Scale Public Art Commissions at the Union Depot

PREVIOUS ACTION:

RCRRA previously approved Subrecipient Grant Agreement MN-04-0031 with the Metropolitan Council, which will provide 80 percent of the funding towards public art at the Union Depot.

On February 7, 2012, Resolution R12-13 authorized the issuance of a Call to Artists (Request for Proposals) for Public Art Commissions at the Union Depot in accordance with Ramsey County policies and procedures on Requests for Proposals, with direction to staff to return to the Ramsey County Regional Railroad Authority with a selection of artists for contracting authorization.

On August 7, 2012, Resolutions R12-31, R12-32, R12-33 and R12-34 approved contracts with four artist teams in the total amount of \$1,050,000 for the commission of public art at Union Depot.

COUNTY MANAGER'S COMMENTS:

Issuance of this solicitation document requires approval of the RCRRA Board and is consistent with the County's commitment to an open, fair and competitive solicitation process.

SUBJECT: Release of Solicitation Document Seeking Artists for Small-Scale Public Art Commissions at Union Depot

Regional Railroad Authority – Authorized Signature	Date
	9/19/12

Budgeting & Accounting – Authorized Signature	Date
	9/17/12

County Attorney – Authorized Signature	Date
	9/19/12

Property Management – Authorized Signature	Date

Information Services – Authorized Signature	Date

Other – Authorized Signature	Date

DRAFT RESOLUTION

1 WHEREAS, The Ramsey County Regional Railroad Authority, along with the Federal
2 Transit Administration, recognizes the importance of public art to the overall success and viability
3 of the The Union Depot Multi-Modal Transportation and Transit Hub ("Union Depot"); and
4

5 WHEREAS, The Federal Transit Administration's recognition of importance is coupled with
6 a commitment of \$1 million in funding towards the public art program; and
7

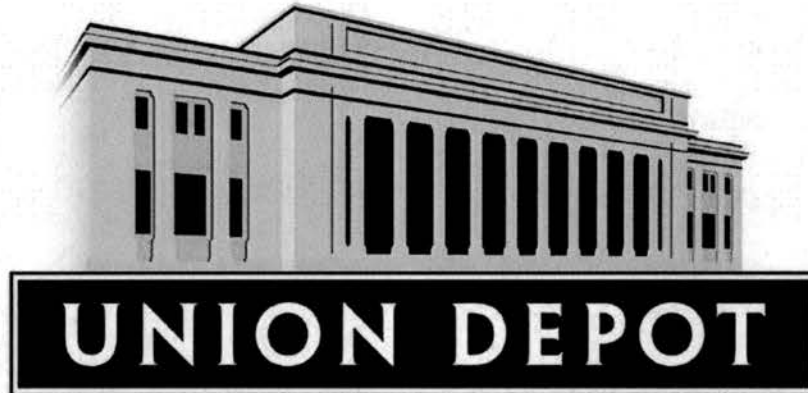
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10

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22 Union Depot in accordance with Ramsey County policies and procedures on Requests for
23 Proposals, with direction to staff to return to the Ramsey County Regional Railroad Authority with a
24 selection of artists for contracting authorization, and informational updates at milestones
25 throughout the process.

Attachment



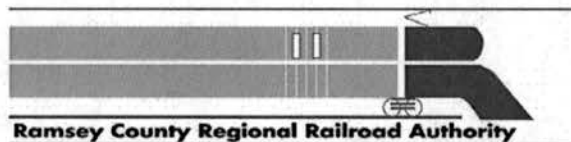
ST. PAUL, MINNESOTA

**SUPPLEMENTAL CALL TO ARTISTS
FOR SMALL-SCALE
PUBLIC ART COMMISSIONS AT UNION DEPOT**

**ST. PAUL, MINN.
SEPTEMBER 2012**

Small-scale public art commissions present an opportunity for emerging artists or artist teams to develop human scale artworks, including furniture, small objects and "Other Surprising Amenities," to engage the public in unique and unexpected ways.

APPLICATIONS DUE: NOVEMBER 12, 2012



**Supplemental Call to Artists
For Small-Scale Public Art Commissions at Union Depot**

I. Project Information

A. Project Overview

The Ramsey County Regional Rail Authority ("RCRRA") is issuing this Supplemental Call to Artists to submit applications for consideration for five to 10 freestanding, small-scale artworks ("Artworks") at the renovated Union Depot in St. Paul, Minnesota.

It is the desire of the RCRRA that these Artworks be accessible to emerging artists/artist teams who do not have extensive experience with large-scale public art projects.

The RCRRA is committed to investing approximately \$1.25 million towards public art at Union Depot, which includes the opportunity outlined in this Supplemental Call to Artists as well as those outlined in the concurrently issued *Supplemental Call to Artists for a Historic and Multicultural Public Art Commission at Union Depot*, and the four opportunities outlined in the April 2012 *Call to Artists for Public Art Commissions at Union Depot*. Artists have already been selected for the original four commissions, accounting for \$1.05 million of the public art budget; additional information is available at <http://bit.ly/depotartistsselection>.

Funding for all public art commissions that are part of the Union Depot project is provided in large part by the Federal Transit Administration ("FTA"), whose funds are administered locally by the Metropolitan Council and provided to the RCRRA through a sub-recipient grant agreement.

Additional information on details of the building and its construction can be found at:

<http://regionalrail.org>

<http://facebook.com/uniondepot>

<http://www.co.ramsey.mn.us/rail/UnionDepot.htm>

B. Background

The RCRRA is in the process of renovating and restoring the historic Union Depot at 214 Fourth Street East as part of the development of a Union Depot Multimodal Transportation Hub on a 33-acre site in downtown St. Paul, Minn. Renovation and restoration of Union Depot, one of America's great rail stations of the early 20th century, is considered a project of regional and national significance by the federal government. When restoration is complete later this year, the 290,000 square foot Union Depot building will be filled with activity that complements transit

and embraces the building's location on the Mississippi River and in St. Paul's distinctive Lowertown neighborhood.

The long-term vision for Union Depot is a multimodal transportation center serving a promising mix of local and regional bus service, light rail, commuter rail and intercity passenger rail. The RCRRA, along with the State of Minnesota and the federal government, is investing \$243 million to redevelop the site as the premier transit hub of the region. Transportation functions will include local bus and light rail service provided by Metro Transit, intercity bus service provided by Jefferson Lines, Amtrak service to Chicago and the Pacific Northwest and connections to the region's network of bicycle trails. Union Depot will also feature a state-of-the-art bicycle center that will function as a hub for bicycle enthusiasts, commuters and recreational users.

Renovation of Union Depot will be complete by the end of 2012, and activation of the various services will occur in phases. Metro Transit bus service is expected to begin in December 2012, and Jefferson Lines service in early 2013. RCRRA is working with the Federal Railroad Administration, the private railroads and Amtrak to determine a date in 2013 for intercity train service to return to Union Depot. Beginning in 2014, the new Central Corridor Light Rail Transit ("LRT") line will terminate directly in front of Union Depot. Planned future transit service includes: high-speed rail to Chicago, Gateway Corridor, Red Rock Commuter Rail, Rush Line Corridor, Riverview Corridor and the Robert Street Transitway.

The RCRRA and the FTA recognize that the visual quality of the nation's transportation systems has a profound impact on transit patrons and the community at large. Mass transit systems should be positive symbols in the community, attracting local riders, tourists and the attention of decision makers for local, regional, national and international events. Good design and art can improve the appearance and safety of a facility, give vibrancy to its public spaces and make patrons feel welcome. Good design and art will also contribute to the goal that transit facilities help to create livable communities.

The FTA is committed to contributing funding towards public art in mass transit projects in order to create facilities that are integral components of communities. In April 2012, RCRRA issued a *Call to Artists for Public Art Commissions at Union Depot*, which outlined four commission opportunities throughout Union Depot. Prior to issuing the aforementioned Call to Artists, the RCRRA partnered with Public Art Saint Paul to create a set of public art ideas for Union Depot, engaging a number of artists on a multidisciplinary team to explore opportunities. The public art opportunity

described in Section II of this document, as well as the four opportunities outlined in the April 2012 call, was informed by this process.

At Union Depot, public art will interweave and share space with some of the most striking architecture in the Twin Cities region and in the State of Minnesota. It will serve to enhance the enjoyment of those passing through the public spaces, while complementing the power of the existing architectural elements. The small-scale public art opportunities outlined in this Supplemental Call to Artists create a chance for emerging artists to explore surprising or playful subject matters, and engage the public in unique and unexpected ways.

Finally, a commitment to art at Union Depot will not end with the reopening of the doors. Ongoing cultural and arts programming will be an important part of the identity of Union Depot, situated in the celebrated artist community of Lowertown.

C. Project Limits

A general diagram, the Union Depot Site Plan, is included as **Appendix A** to this Supplemental Call to Artists.

It should be noted that the selected artists/artist teams will not have opportunities to influence final design plans for the pre-existing infrastructure in the Union Depot building, due to the level of completeness in design and construction. It should also be noted that the Union Depot renovation project has significant oversight from the Minnesota State Historic Preservation Office ("SHPO") and the City of Saint Paul's Heritage Preservation Commission ("HPC"). Artworks proposed on the site or exterior elevations will require review by the HPC and SHPO while interior art proposals will require review by the SHPO.

Union Depot's head house and concourse are both listed on the National Register of Historic Places, are located within the local and National Register Lowertown Historic District, and are pivotal to the historic character of the Lowertown Historic District. In addition, Union Depot's train deck was recently determined to be eligible for listing on the National Register of Historic Places and has been determined significant in further interpreting the social and architectural character of the site and historic district. The following are important to keep in mind when considering art installations on or within a historic site and district:

1. Develop an understanding of the historical context in which the building was envisioned, designed and built, and be sensitive to the historic context of the site.
2. Identify principles that balance preserving/reinforcing the prominent features of the site while introducing a dynamic and vital public art component. Principles should include consideration

of appropriate location and attachment methods, preserving important views of historic resources and features, as well as how art could embody local themes that depict the shared past of the site, historic district, city or region.

3. To the extent possible, art proposals that foster educational opportunities about the cultural resources are also encouraged.

D. Project Information Contact

Members of the Union Depot Art Selection and Design Review Panel; employees or representatives of the Ramsey County Regional Railroad Authority; and Ramsey County personnel and elected officials are not authorized to discuss this Supplemental Call to Artists with interested artists or artist teams. All questions related to the Supplemental Call to Artists requirements and requests for clarification must be submitted in writing to the following person by 4 p.m. on Oct. 26, 2012:

Susan Feuerherm
Division of Contract and Analysis Services
280 City Hall/Court House Bldg.
15 West Kellogg Blvd.
St. Paul, MN 55102

Questions may be faxed to (651) 266-8919 or emailed to susan.feuerherm@ci.stpaul.mn.us.

E. Pre-submission Conference & Site Tour

A pre-submission conference will be held at the Great Hall located in the Union Depot Building, 214 4th Street E., St. Paul, Minn., on Monday, October 22, 2012, at 10 a.m., followed by a walking tour of the Union Depot site. Attendance at the Pre-submission Conference is not mandatory, but interested artists are encouraged to attend.

II. Scope of Services

A. General

Artists or artist teams shall submit their application. The Union Depot Art Selection and Design Review Panel, comprised of artists, arts professionals, historic preservation experts, community members and project partners shall evaluate all responsive applications and select five to 10 artists or artist teams who will be invited to submit a Refined Design Concept and Budget Proposal.

Each selected artist or artist team will receive a Proposal Design Services flat fee in the amount of \$1,000 to be used to create a Refined Design Concept and Budget Proposal. The Proposal Design Services fee will be paid within 35 days of the RCRRA's receipt and approval of a Refined

Design Concept and Budget Proposal. Only one design fee will be paid per selected artist or artist team.

The panel shall evaluate the Refined Design Concept and Budget Proposal and recommend artists or artist teams for approval by the RCRRA Board.

The number of selected Artworks will depend on the quality and budgets of the highest scoring proposals. The total budget for the small-scale Artworks will not exceed \$50,000, and will be divided among selected projects.

B. Project Services

1. This Supplemental Call to Artists describes opportunities for small-scale public art installations across the Union Depot site. Commissions resulting from this call will include design, fabrication and installation of artworks. Related services include, but are not limited to: conceptualization and design, including development of construction documents; specification of required equipment, materials and fabrication methods; identification of installation requirements; development of a budget identifying all associated costs; fabrication and installation.
2. Photos of various spaces within Union Depot are attached to and made a part of this Supplemental Call to Artists as **Appendix B**. Art installations related to this commission are not limited to the spaces included in **Appendix B**.
3. Commission Opportunity: "Human Scale: Furniture, Small Objects and Other Surprising Amenities"
Total commission budget: Not to exceed \$50,000

Union Depot features numerous public spaces that will be occupied by commuters going to and from transportation services, by shoppers coming to new retail and commercial spaces, by attendees of arts and cultural events, and by those who simply want to enjoy Union Depot as the "living room" of Lowertown. Some of these spaces are large and open, while others are smaller in scale.

RCRRA is looking for multiple projects that could involve a wide range of artistic approaches, forms and material types. A few sample ideas include:

- Creative seating groups or furnishings
- Small sculptures integrated into large spaces
- Artfully designed public game tables
- Two-dimensional wall-mounted artworks for smaller spaces

Small-scale commissions are opportunities for functional elements of the transit station to be made unique, or even transformed into whimsical expressions of creativity. This opportunity should be viewed as an open slate of possibility, a chance to incorporate smaller, engaging artistic works within Union Depot for the public to enjoy.

6. Artists may choose to participate in community outreach activities that could include one-on-one interviews, neighborhood meetings and/or workshops as part of the design process. It is possible that presentations will be needed for the HPC and/or SHPO.
7. As indicated in the background section above (I.B.), construction and renovation work at Union Depot will be complete by the end of 2012. It is recognized that final installation of the public art will not be possible before the opening, given the timetable illustrated below.

III. Call to Artists Timetable

Call to Artists Issued	Week of September 25, 2012
Pre-submission Conference & Site Tour	10 a.m., October 22, 2012
Deadline for Written Questions	4 p.m., October 26, 2012
Written Responses Sent	4 p.m., October 31, 2012
Artist Applications Due	2 p.m., November 12, 2012
Shorlisted Artists Announced	December 2012
Union Depot Multimodal Transit Hub Opening	December 2012
Refined Design Concept/Budget Proposals Due	February 1, 2013
Interviews of Finalists	February 2012
Contracts Executed	February-March 2013

IV. Application Submission

A. Application Submission Process

1. Notice to Interested Artists
 - a. The RCRRA is not responsible for costs incurred by anyone responding to this Supplemental Call to Artists.
 - b. The RCRRA expressly reserves the right to amend or withdraw this Supplemental Call to Artists at any time and to reject any or all applications.
 - c. The RCRRA reserves the right to request additional information at any stage of the Supplemental Call to Artists evaluation process.

2. Questions

Responding artists/artist teams are to submit written questions related to the specific project requirements and the Supplemental Call to Artists process by 4 p.m. on Oct. 26, 2012, to:

Susan Feuerherm
Division of Contract and Analysis Services
280 City Hall/Court House Bldg.
15 West Kellogg Blvd.
St. Paul, MN 55102

Questions may be faxed to 651-266-8919 or emailed to: susan.feuerherm@ci.stpaul.mn.us.

Written responses to all questions received on time will be available on Onvia Demandstar by 4 p.m. on Oct. 31, 2012, in the form of addenda. Oral questions will not be accepted.

Responding artists/artist teams shall rely only on the provisions of this Supplemental Call to Artists and written addenda in preparing their applications.

B. Valid Application

1. In order to be considered valid, the application shall be in writing, submitted on time and in accordance with the sealed solicitation process of the Division of Contract and Analysis Services, and be signed by the artist or the artist team lead accountable for all representations.
2. Expressions of creativity in the content of the application are welcome; however, applications must comply with the following formatting requirements:
 - a. All pages must be three-hole punched for a standard loose-leaf binder, but the application shall not be bound or submitted in a binder.
 - b. Do not use cardstock, unusually heavy paper, staples, paper clips or binders when assembling the application. Respondents should use double-sided printing in order to reduce use of paper. Color copies of applications are acceptable.
 - c. Only materials specifically requested should be included. Other materials will not be considered or reviewed by the Union Depot Art Selection and Design Review Panel.

3. The application must contain the following information, presented in the order shown:
 - a. A completed Commission Opportunity Form, attached to and made a part of this Supplemental Call to Artists as **Appendix C**.
 - b. Cover letter – Briefly discuss why the artist or artist team is best suited to be chosen for this project. For emerging artists: what unique talents or viewpoints do you bring to the project, in lieu of previous experience? Please indicate the availability of the artist/artist team over the coming 12 months to undertake this project.
 - c. Brief Project Concept – In no more than one page, provide a general written concept for an artistic work at Union Depot. A simple drawing or rough sketch may be included as a second page. The emphasis should be on creatively and concisely pitching a concept, rather than providing detailed drawings at this point.
 - d. Resume – Include a professional resume for the responding artist or for each artist team member. Each resume must be typed and be a maximum of two pages in length.
 - e. Sample Images and Image List – Include a total of 10 Sample Images of past work by the submitting artist or artist team, (i.e., 10 images per application, not participant), numbered in the order of desired presentation. Please make note if images pertain to installations in historic sites. An additional 10 images can be included in the application if desired; however, this second set of images will be used only if requested by the Union Depot Art Selection and Design Review Panel. Sample Images should be presented on a CD in JPEG format. Digital files should be numbered sequentially, corresponding to the Image List. The CD must be clearly labeled with the artist's name or the names of the artist team members. **Only one CD is required.** The Image List should be numbered and annotated with the artist's name, title of the work, date the work was completed, medium of work, location of the work, cost of the work, time period for completion of work, and a short description of the artwork.
 - f. A maximum of three published reviews/articles about your work may be submitted with the application at your option.

C. Application Submission

1. Applications are due by 2 p.m. on Nov. 12, 2012.

Submit to:

Division of Contract and Analysis Services
280 City Hall/Court House Bldg.
15 West Kellogg Blvd.
St. Paul, MN 55102

Faxed or emailed applications will not be accepted.

2. The CD containing Sample Images in JPEG format containing the information required in B. 3.e. above must be included only in the original application. An original plus eight copies must be submitted of all other components of the application. The Commission Opportunity Form must have the original signature of the artist or lead artist team member who will be accountable for all representations. Unsigned applications will be considered invalid.
3. To facilitate application opening, the original only must be sealed in a separate envelope or box. The name, address, and RFP number must be clearly marked on the outside. The remaining copies may be wrapped or boxed together with similar identification information.
4. An application may be withdrawn on written request of the artist or artist team prior to the application due date.
5. Failure to submit an application on time shall constitute grounds for the rejection of the application.
6. All information included in the submitted application will be classified in accordance with Section 13.591 of Minnesota statutes governing data practices.

V. Evaluation, Application Selection Criteria, Refined Design Concept and Budget Proposal Requirements and Evaluation, and Contract Award

A. Evaluation

1. The RCRRA will oversee development and approval of commissions for Union Depot.
2. The RCRRA reserves the right to waive any minor irregularities in the Supplemental Call to Artists request process.

3. The RCRRA reserves the right to interview any or all responding artists or artist teams at its discretion. The RCRRA is not responsible for any costs incurred by the artists or artist teams in preparing for or participating in an interview.
4. The Union Depot Art Selection and Design Review Panel is comprised of artists, arts professionals, historic preservationists, project partners and community members.
5. The Union Depot Art Selection and Design Review Panel may elect to invite finalists to interview by phone prior to awarding commissions.

B. Application-Selection Criteria

The Union Depot Art Selection and Design Review Panel will select five to 10 artists or artist teams as finalists, based on the following criteria:

1. Quality and creativity of cover letter response to why the artist or artist team is best suited for selection.
2. Creativity and artistic merit of the Brief Project Concept.
3. Feasibility of the project concept for the site, including cost, scale, materials, etc.
4. Aesthetic quality and craftsmanship of previously completed art projects and/or commissions.

C. Refined Design Concept and Budget Proposal Requirements and Evaluation

1. Selected artists or artist teams will enter into a Small Design Agreement with RCRRA and will be asked to submit a Refined Design Concept and Budget Proposal. A sample Small Design Agreement is attached hereto and made a part of this Supplemental Call to Artists as **Appendix D**.

Each selected artist or artist team will receive a Proposal Design Services flat fee in the amount of \$1,000 to create a Refined Design Concept and Budget Proposal. The Proposal Design Services fee will be paid within 35 days of the RCRRA's receipt and approval of a Refined Design Concept and Budget Proposal. Only one design fee will be paid per artist or artist team.

2. A valid Refined Design Concept and Budget Proposal must provide sufficient detail to permit the RCRRA, SHPO and HPC to determine compliance with applicable local, state or federal laws, ordinances and/or regulations and consist of the following elements:

- a. Detailed written description and a visual representation of the project, such as a physical model, design drawings or a detailed sketch.
- b. Additional information about the content of the project that might assist the panel in understanding the concept.
- c. A budget proposal outlining financial needs to accomplish project, including any final design, material, fabrication and installation costs.

3. Final Artist/Artist Team Selection Criteria

The Union Depot Art Selection and Design Review Panel will review and evaluate the Refined Design Concept and Budget Proposals based on the following criteria:

1. Creativity and artistic merit of the Refined Project Concept.
2. Appropriateness and feasibility of the project concept for the site, including technical craftsmanship, cost, scale, materials, etc.
3. Durability and suitability of materials used related to resistance to vandalism and minimization of maintenance requirements.
4. Proposed ideas for engaging the community.

D. Contract

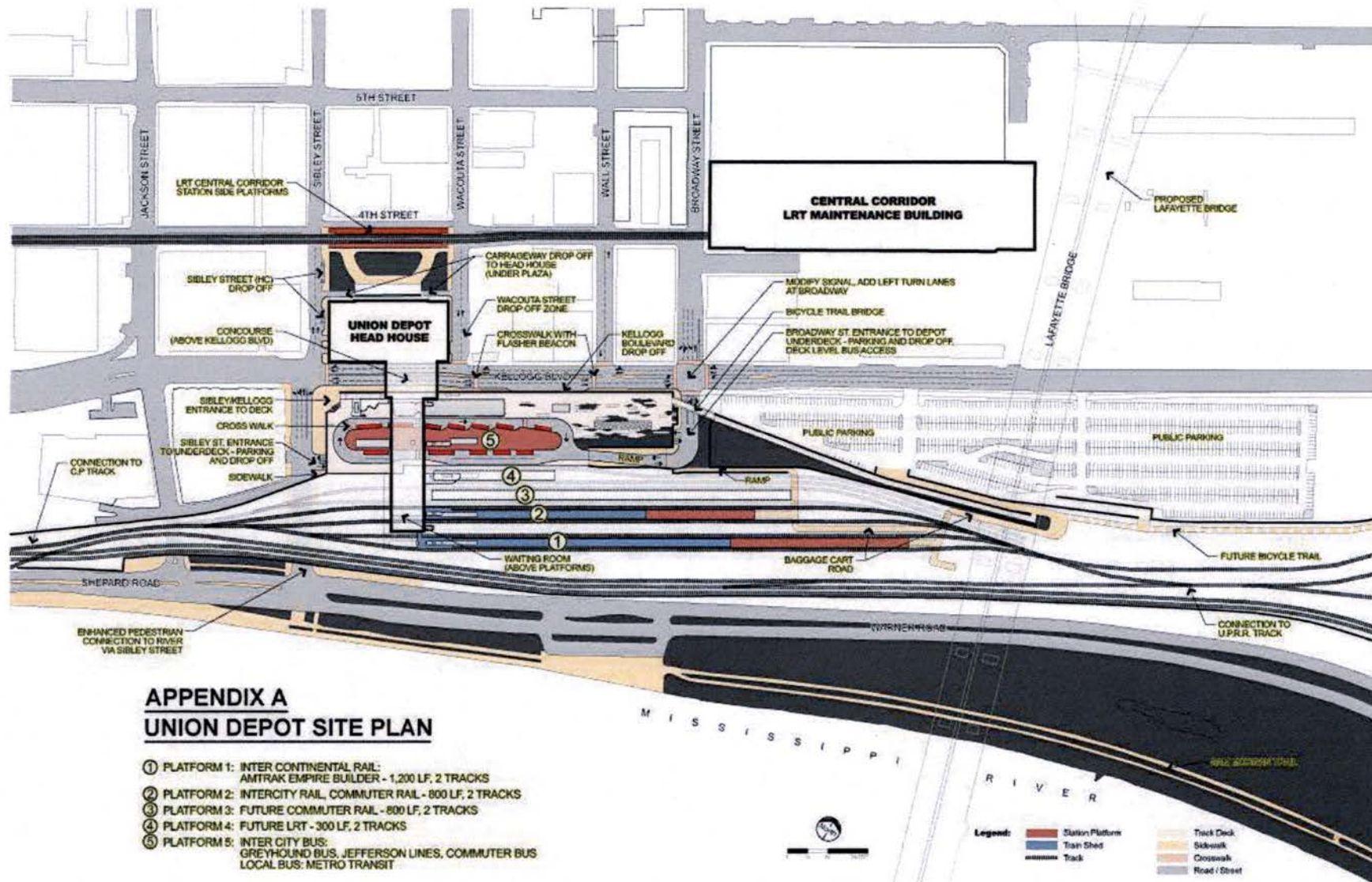
1. The resulting agreements to be executed between the selected artists/artist teams and the RCRRA will be in the form of the Sample Agreement, including the Specific Federal Requirements, attached hereto and made a part of this Supplemental Call to Artists as **Appendix E**; and will include applicable provisions of this Supplemental Call to Artists and of the successful artist's or artists' application and proposal.
2. Commissions resulting from this Supplemental Call to Artists that involve subcontracting will be assigned a Disadvantaged Business Enterprise (DBE) goal that will be based on the proposed scope of the subcontracted work for the project. Applicable DBE policies and procedures are included as part of Exhibit 7 to **Appendix E** of this RFP.
3. The specific terms of each agreement will be negotiated by the artist/artist team and the RCRRA. The contract will, at minimum, include the following:
 - a. A description of services to include preparation and submission of schematic designs; submission of fabrication

and materials specifications; submission of final construction drawings; fabrication; installation; and submission of any maintenance or operational requirements.

- b. A requirement that if any of the contract work (such as installation) will be subcontracted, upon development of a DBE requirement by the Metropolitan Council following submission of the Refined Design Concept and Budget Proposal to the RCRRRA, the selected artist/artist team demonstrate good faith efforts to meet the established DBE goal by either:
 - 1) Documenting the participation of specific DBEs to meet the goal; or
 - 2) Documenting adequate good faith efforts to meet the goal, even if the efforts were not successful in obtaining sufficient DBE participation to meet the goal.
 - c. A review and approval process for submissions.
 - d. Payment amount, with a breakdown of payments to be made to subcontractors, and a payment schedule.
 - e. Project Timeline.
4. A contract for a commission by an artist team will be in the name of the Applicant Artist identified on the Commission Opportunities Form.

VI. Appendices

- A. Union Depot Site Plan
- B. Photographs and Renderings of Union Depot Site
- C. Commission Opportunities Form
- D. Sample Small Design Agreement
- E. Sample Agreement for Commission of Public Artwork



Appendix B

PHOTOGRAPHS AND RENDERINGS OF UNION DEPOT SITE



The front of the head house is now a pedestrian plaza, creating space for unique Artworks. Artworks in this area would need to be movable in order to meet historic requirements.



This portico area in the Great Hall is an opportunity for Artworks, such as furnishings. Artworks in this area would need to be movable in order to meet historic requirements.

(Union Depot site photos continued. Art opportunities are NOT limited to these spaces!)



This portico area behind the front colonnade presents opportunities for Artworks. The entrance from Wacouta to Union Depot's head house is unique with its open, high ceilings.



The concourse connecting the head house to the waiting room is an open pass-through space, with opportunities for small interventions and surprising amenities.

(Union Depot site photos continued. Art opportunities are NOT limited to these spaces!)



Spaces like this one in the concourse have large wall spaces and open floor space, creating an opportunity for small interventions and surprising amenities.



The new pedestrian plaza on the train deck features sheltered areas next to planters where pedestrians can congregate. This is an opportunity for small-scale Artworks.

(Union Depot site photos continued. Art opportunities are NOT limited to these spaces!)



The waiting room is already a destination for public artworks by several artists. However, playful or artistic seating arrangements or furnishings could provide contrast with more typical transit center furnishings.



The large bus platform will serve riders of Metro Transit, Jefferson Lines and casino shuttles in the near term. Wind shelters and open platform space presents opportunities for small-scale Artworks.

Appendix C

COMMISSION OPPORTUNITY FORM



SUPPLEMENTAL CALL TO ARTISTS FOR SMALL-SCALE PUBLIC ART COMMISSIONS AT UNION DEPOT

Attach as first page of the application.

Name of Individual Applicant or Name of Primary Applicant for Artist Team

Team Members

Primary Team Contact Name (if applicable)

Signature of Primary Team Contact

Individual or Primary Team Contact Telephone Number

Individual or Primary Team Contact Email Address

Individual or Primary Team Contact Mailing Address

RFP-RAA292

Appendix D

(Sample Small Design Agreement follows.)

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**Agreement between Ramsey County Regional Railroad Authority
and ARTIST NAME HERE**

This is an Agreement between Ramsey County Regional Railroad Authority, Minnesota, a political subdivision of the State of Minnesota, ("RCRRA") and NAME, ADDRESS ("Artist").

The RCRRA and the Artist agree as follows:

1. Scope of Services

- a. The Artist will develop and submit a **Refined Design Concept and Budget Proposal**, consisting of:
 - 1. Detailed written description and a visual representation of the proposed artwork ("Artwork"), such as a physical model, design drawings or a detailed sketch.
 - 2. Detailed information about: Artwork scale, proposed materials and fabrication methods.
 - 3. Detailed budget proposal, including final design, material, fabrication and installation costs.

The Refined Design Concept and Budget Proposal must include sufficient detail to permit the RCRRA, the Minnesota State Historic Preservation Office and the Saint Paul Heritage Preservation Commission to determine compliance with applicable local, state or federal laws, ordinances and/or regulations.

2. Time

Services shall commence following execution of this Agreement by both parties. The **Refined Design Concept and Budget Proposal** will be completed by XXXX.

4. Cost/Payment

The RCRRA will compensate the Artist a flat design fee of \$1,000 for creating a Refined Design Concept and Budget Proposal. Design fees will be paid within 35 days of the RCRRA's receipt of a Refined Design Concept and Budget Proposal that meets all of the requirements of this contract and the Supplemental Call to Artists for Small-Scale Public Art Commissions at Union Depot.

5. Independent Contractor

It is agreed by the parties that at all times and for all purposes within the scope of this Agreement, the relationship of the Artist to the RCRRA is that of an independent contractor and not that of employee and that the Artist shall be entitled to none of the rights, privileges or benefits of RCRRA employees

6. Indemnification

The Artist shall defend, indemnify, and hold harmless the RCRRA, its officials and employees from damages, losses or injuries resulting directly or indirectly from the Artist's acts or omissions while performing the services described in this Agreement.

7. Artist's Involvement and Copyright Ownership

If the Artwork described in the Refined Design Concept and Budget Proposal is not selected to be fabricated and installed, the RCRRA will not contract with another Artist to fabricate the same Artwork.

Whether or not the RCRRA chooses to move forward with the Artwork described in the Refined Design Concept and Budget Proposal, the Artist retains all rights under the Copyright Act of 1976, 17 U.S.C. § 101 et seq., as the sole author of the Artwork for the duration of the copyright.

8. Termination

The RCRRA may terminate this Agreement immediately upon written notice to the Artist at the address set forth above. In the event of termination, the Artist will be paid the \$1,000 design fee.

9. Audit

Until the expiration of six years after the furnishing of services pursuant to this Agreement, the Artist, upon written request, shall make available to the RCRRA, the State Auditor, or the RCRRA's ultimate funding source, a copy of this Agreement, and the books, documents, records, and accounting procedures and practices of the Artist relating to this Agreement.

10. Data Practices

All data collected, created, received, maintained or disseminated for any purpose in the course of the Artist's performance of this Agreement is governed by the Minnesota Government Data Practices Act, Minn. Statutes Chapter 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

11. Unavailability of Funding

The purchase of goods or services from the Artist under this Agreement is subject to the availability and provision of funding from the United States, the State of Minnesota, or other funding sources, and the appropriation of funds from the Regional Railroad Authority. The RCRRA may immediately terminate this Agreement if the funding for the contracted goods and services is no longer available or is not appropriated by the Regional Railroad Authority. Upon receipt of the RCRRA's notice of termination of the Agreement the Artist shall take all actions necessary to discontinue further commitments of funds to the Agreement. Termination shall be treated as termination without cause and will not result in any penalty or expense to the RCRRA.

12. Non-Assignability

The Artist shall not subcontract services, assign any interest in this Agreement, or transfer any interest in the same, whether by subcontract, assignment or novation, without the prior written consent of the RCRRA.

13. Respectful Workplace and Violence Prevention

The Artist shall make all reasonable efforts to ensure that the Artist's employees, officials and subcontractors do not engage in violence while performing under this Agreement. Violence, as defined by the Ramsey County Respectful Workplace and Violence Prevention Policy, means 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.

14. Interpretation of Agreement; Venue

This Agreement shall be interpreted and construed according to the laws of the State of Minnesota. All litigation regarding this Agreement shall be venued in the appropriate State or Federal District Court in Ramsey County, Minnesota.

15. Alteration

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

16. Setoff

Notwithstanding any provision of the Agreement to the contrary, the Artist shall not be relieved of liability to the RCRRA for damages sustained by the RCRRA by virtue of any breach of this Agreement by the Artist. The RCRRA may withhold any payment to the Artist for the purpose of setoff until such time as the exact amount of damages due the RCRRA from the Artist is determined.

17. Entire Agreement

Nothing in this Agreement shall constitute a waiver by the RCRRA of any statutory or common law immunities, limits, or exceptions on liability. This Agreement shall constitute the entire agreement between parties and shall supersede all prior oral or written negotiations.

WHEREFORE, this Agreement is duly executed on the last date written below.

**RAMSEY COUNTY REGIONAL
RAILROAD AUTHORITY**

ARTIST NAME

Timothy A. Mayasich, Director

Date: _____

By: _____

Print Name: _____

Title: _____

Date: _____

Approved as to form and insurance:

Assistant County Attorney

RFP-RAA292

Appendix E

(Sample Agreement for Commission of Public Artwork follows.)

AGREEMENT FOR COMMISSION OF PUBLIC ARTWORK

THIS AGREEMENT is entered into between the Ramsey County Regional Railroad Authority ("RCRRA"), a political subdivision of the State of Minnesota, with offices at Union Depot, 214 4th Street East, Suite 200, St. Paul, MN 55101 and ARTIST NAME, ADDRESS.

WHEREAS, the RCRRA has included Artwork Funding for the establishment and display of Artwork as part of the renovation and restoration of the Union Depot ("Project"); and

WHEREAS, the RCRRA issued a Supplemental Call to Artists for applications to design, execute, fabricate and/or install Artwork at Union Depot; and

WHEREAS, the Artist previously entered into a Small Design Agreement with RCRRA and submitted a satisfactory Refined Design Concept and Budget Proposal; and

WHEREAS, the Artist is a recognized artist whose work and reputation make the Artist uniquely qualified to create Artwork as part of the Project; and

WHEREAS, the Artist and the RCRRA wish to undertake the obligations expressed herein;

NOW, THEREFORE, in consideration of the above-stated premises and subject to the conditions hereinafter set forth, the parties agree as follows:

Article 1 Scope of Services

1.1 Artist's Obligations

- 1.1.1 The Artist shall perform all services and furnish all supplies, material and/or equipment as necessary for the design, fabrication, and installation of the Artwork described in **Exhibit 1**, attached to and made a part of this Agreement, at the location described in **Exhibit 1** ("Site"). Services shall be performed in a professional manner and in strict compliance with all terms and conditions in this Agreement.
- 1.1.2 The Artist shall determine the artistic expression, design, dimensions and materials of the Artwork, subject to review and acceptance by the RCRRA as set forth in this Agreement. To ensure that the Artwork as installed shall not interfere with the intended use of the Site, pedestrian and other traffic flow, parking, and safety devices and procedures at the Site, the Artist's proposal shall be reviewed by the RCRRA and its Consultants, as necessary, for approval by the RCRRA to ensure compliance with these objectives.
- 1.1.3 The Artist shall prepare the Artwork design and corresponding budget as provided in Section 1.3 of this Agreement for the approved proposal.

- 1.1.4 Throughout the Project, the Artist shall provide RCRRA staff sufficient detail to permit the RCRRA to determine compliance with applicable local, state or federal laws, ordinances and/or regulations, and to obtain any necessary approvals with the State Historic Preservation Office ("SHPO"), and the City of Saint Paul's Heritage Preservation Commission ("HPC").
- 1.1.5 The Artist shall complete the fabrication of the Artwork by the scheduled installation start date as provided in Section 1.4.2 of this Agreement.
- 1.1.6 The Artist shall secure any and all required licenses, permits and similar legal authorizations at the Artist's expense as may be necessary for the installation of the Artwork at the Site.
- 1.1.7 The Artist shall arrange the transportation and installation of the Artwork in consultation with RCRRA staff. If the Artist does not personally install the Artwork, the Artist shall supervise and approve the installation.
- 1.1.8 The Artist shall provide required insurance as specified in Article 6 and **Exhibit 2**, attached hereto and made a part of this Agreement.
- 1.1.9 The Artist shall provide a list of all subcontractors along with a copy of the agreement between the Artist and each subcontractor.
- 1.1.10 The Artist shall provide a maintenance manual with a description of all materials and products utilized in the Artwork and the required care and upkeep involved.
- 1.1.11 The Artist shall provide photographic documentation of the Artwork.
- 1.1.12 The Artist shall be available with reasonable advance notice for meetings, ceremonies and the like, as necessary.

1.2 RCRRA's Obligations

- 1.2.1 The RCRRA shall perform all obligations in strict compliance with all terms and conditions in this Agreement.
- 1.2.2 The RCRRA shall be responsible for providing the Artist, at no expense to the Artist, copies of existing designs, drawings, and reports; a list of required permits, licenses, and other authorizations; and other existing relevant data, if any, which is needed by the Artist in order to perform.
- 1.2.3 The RCRRA shall be responsible for compliance with applicable laws and regulations with the exception of required licenses, permits and similar authorizations required to be secured by the Artist under Section 1.1.6, and shall explain any limitations imposed by such laws and/or regulations to the Artist.

- 1.2.4 The RCRRA shall prepare the Site in accordance with the specifications detailed in the approved design concept in Section 1.3 of this Agreement. The Artist and RCRRA staff will cooperate to determine reasonable costs for those items that the RCRRA will be responsible for in order to prepare the Site for the timely transportation and installation of the Artwork. The RCRRA shall complete the Site preparations by the scheduled installation start date as provided in Section 1.4.2 of this Agreement or shall notify the Artist in writing of any delays.
- 1.2.5 The RCRRA shall provide and install a plaque on or near the Artwork containing a credit to the Artist substantially in the following form: [Artist's name, Artwork title, date of publication].
- 1.2.6 The RCRRA shall not permit any use of the Artist's name or misuse of the Artwork which would reflect discredit on the Artist's reputation as an artist or which would violate the spirit of the Artwork, should such use or misuse be within the RCRRA's control.
- 1.2.7 RCRRA staff shall be responsible for leading the Artist through the required review process. RCRRA staff shall be responsible for organizing and scheduling meetings with review entities such as the Union Depot Art Selection and Design Review Panel, the State Historic Preservation Office (SHPO) and the City of Saint Paul's Heritage Preservation Commission (HPC) and for providing the Artist written instructions for the materials required at such meetings should they be necessary.

1.3 Design

1.3.1 Refined Design Concept and Budget Proposal

- a. The Artist's previously approved Refined Design Concept and Budget Proposal shall be incorporated into and made a part of this Agreement by reference as **Exhibit 1**.

1.3.2 Final Design/Construction Documents

- a. The Artist shall prepare structural drawings for the approved design ("Final Design") detailing every physical feature of the construction of the Artwork and its integration with the Site. These drawings and supplementary documents shall indicate any issues involved in the construction, integration and maintenance of the Artwork, and shall identify any subcontractors needed to work on the project including the work to be performed by the subcontractors.
- b. Where appropriate, the Artist shall present such drawings to a qualified engineer, licensed by the State of Minnesota and paid by the Artist, for certification that the Artwork will be of adequate structural integrity, and the Artist shall provide the RCRRA with such certification, signed and stamped by the licensed engineer. The Artist shall present the Final Design to a qualified conservator, designated by RCRRA staff at no cost to the

Artist, who will make recommendations on the maintenance of the Artwork. The Artist shall provide a written copy of the conservator's recommendations to RCRRA staff.

- c. The Artist shall provide a detailed narrative Description of the Artwork with explicit detail regarding the overall form or design, scale, dimensions, color, and surface treatment of the Artwork. The Description of the Artwork shall be incorporated into and made a part of this Agreement by reference as **Exhibit 3**.

1.4 Budget/Payment Schedule

1.4.1 Budget

- a. The budget to be prepared by the Artist pursuant to the provisions of this Section shall include all goods, services and materials, with such costs itemized. Calculation of the budget will take into consideration the possible inflation of service and material costs between the date of execution of this Agreement and the anticipated completion date. The Artist shall include a contingency amount between 5% and 10% to be used towards unforeseen costs directly related to the fabrication and/or installation of the project.
- b. The Budget, as established in the Artist's previously approved Refined Design Concept and Budget Proposal, has been incorporated into and made a part of this Agreement by reference as **Exhibit 1**.
- c. The Artist shall keep a log of the Artist's Project hours as well as the hours of work performed by subcontractors, and shall retain all original receipts pertaining directly to the Project.
- d. The Artist shall notify the RCRRA, in writing, prior to the use of any contingency funds for any purpose.
- e. Upon completion of the Project, and prior to Transfer of Title of the Artwork from the Artist to the RCRRA, the Artist shall provide written notice of any unspent funds from the contingency funds. These unspent funds shall be retained by the Artist.
- f. If the Artist incurs costs in excess of the approved budget, the Artist shall pay such excess from the Artist's own funds unless the Artist had previously obtained written approval for a modified budget incorporating such costs from the RCRRA.

1.4.2 Payment Schedule

- a. A schedule for payment to the Artist is included in **Exhibit 4**.

1.5 Project Construction Schedule and Progress Reports

- 1.5.1 The Artist shall submit a proposed schedule for the fabrication and installation of the Artwork, including a schedule for the submission of progress reports and inspections if any, to the RCRRA for approval. Upon approval, the schedule shall be incorporated into and made a part of this Agreement by reference as **Exhibit 5**.
- 1.5.2 The Schedule may be amended only by written agreement of the parties. Any approved revised schedule shall replace and supersede the original schedule as **Exhibit 5**.

1.6 Fabrication Stage

- 1.6.1 The Artist shall fabricate and install the Artwork in substantial conformity with the Final Design. The Artist may not deviate from the approved Final Design without written approval of RCRRA staff.
- 1.6.2 The Artist shall take reasonable measures to protect or preserve the integrity of the Artwork such as the application of protective or anti-graffiti coatings, if applicable, unless the RCRRA disapproves. If the Artwork is being constructed on-site, the Artist shall avoid creating nuisance conditions arising out of the Artist's operations. Prior to requesting authorization to transport and install the Artwork, the Artist shall be required to provide the RCRRA with a list of all workers or subcontractors and equipment to be used along with the hours of operation and the scope of work to be performed on site. All subcontractors must provide proof of insurance as described in **Exhibit 2** prior to entering the Site.
- 1.6.3 The Artist will inform RCRRA of the intent to enter into subcontracts for any part of the fabrication of the Artwork. Subcontracted work will be assigned a Disadvantaged Business Enterprise (DBE) goal that will be based on the proposed scope of the subcontracted work for the project. Applicable DBE policies and procedures are attached hereto and made a part of this Agreement as **Exhibit 7**.
- 1.6.4 RCRRA staff shall have the right to review the Artwork at reasonable times during the fabrication thereof upon reasonable notice. At the RCRRA's request, the Artist shall provide clear photographic documentation of the progress of fabrication of the Artwork.
- 1.6.5 If RCRRA staff, upon review of the Artwork, determines that the Artwork does not conform to the Final Design, the RCRRA reserves the right to notify the Artist in writing of the deviations and that the RCRRA intends to withhold the next payment.
- 1.6.6 The Artist will inform the RCRRA of the planned method for achieving conformance to the Final Design, will promptly cure the deviations and will notify the RCRRA in writing of completion of the cure. RCRRA staff or the RCRRA's Consultants, as necessary, shall promptly review the Artwork, and upon approval shall release the next payment. If the Artist disputes the RCRRA's determination of deviation, the Artist shall promptly submit reasons in writing to

the RCRRA within 10 days of the RCRRA's notification. The RCRRA shall make reasonable efforts to resolve the dispute with the Artist in good faith. However, final determination as to whether the Artist has complied with the terms of this Agreement shall remain with the RCRRA.

- 1.6.7 The Artist shall notify the RCRRA in writing when fabrication of the Artwork has been completed, and when the Artwork is ready for delivery and installation at the Site if the Artwork was fabricated off-site. Artist shall also provide RCRRA staff with clear photographic documentation of the completed Artwork.
- 1.6.8 At the RCRRA's option, RCRRA staff or the RCRRA's Consultants, as necessary, shall inspect the Artwork within 10 days after receiving notification pursuant to paragraph 1.6.6, prior to installation, to determine that the Artwork conforms to the Final Design and to give final approval of the Artwork. The RCRRA shall not unreasonably withhold final approval of the fabricated Artwork. In the event that the RCRRA does withhold final approval, the RCRRA shall submit the reasons for such disapproval in writing within 10 days of examining the fabricated Artwork. The Artist shall then have 30 days from the date of the RCRRA's notice of the disapproval to make the necessary adjustments to the fabricated Artwork in accordance with such writing. The Artist shall not be penalized for any delay in the delivery and installation of the Artwork to the Site unless the Artist has willfully and substantially deviated from the Final Design without the prior approval of the RCRRA. The Artist shall then be held responsible for any expenses incurred in correcting such deviation.
- 1.6.9 RCRRA staff shall promptly notify the Artist of any delays, if such delays are caused by the RCRRA, impacting installation of the Artwork. Any additional storage fees incurred as a result of such delays are the responsibility of the RCRRA.
- 1.6.10 The Artist shall be required to inspect the Site prior to the transportation and installation of the Artwork and shall notify the RCRRA of any adverse Site conditions that will impact the installation of the Artwork which are in need of correction.

1.7 Changes to Design

- 1.7.1 Changes to the approved design may not be executed prior to submission of the proposed changes in writing to the RCRRA for further review and approval. The Artist must provide a detailed description of any significant changes in the artistic expression, design, dimensions and materials of the Artwork that is not permitted by nor in substantial conformity with the already approved design. Such notice will also include a detailed description of any additional costs that may be incurred or changes in the budget. A significant change is any change which materially affects installation, scheduling, site preparation or maintenance of the Artwork or the concept of the Artwork as represented in the Design.

- 1.7.2 If RCRRA staff approves the changes, the RCRRA shall promptly notify the Artist in writing. RCRRA staff will also make the required presentations to the approval bodies.
- 1.7.3 If RCRRA staff disapproves of the changes, the RCRRA shall promptly notify the Artist in writing and the Artist shall continue to fabricate the Artwork in substantial conformity with the Design.
- 1.7.4 The Artist's fee shall be equitably adjusted for any increase or decrease in the Artist's cost of, or time required for, performance of any services under this Agreement as a result of revisions made to the Design under Section 1.7.1. Any claim of the Artist for adjustment under this paragraph must be asserted in writing within 20 days after the date of the approval of the revision by the RCRRA.

1.8 Installation

- 1.8.1 Upon the RCRRA's final approval of the fabricated Artwork as being in conformity with the Final Design, the Artist shall deliver and install the completed Artwork to the Site in accordance with the agreed-upon schedule.
- 1.8.2 The Artist will coordinate closely with RCRRA staff to ascertain that the Site is prepared to receive the Artwork. The Artist must notify the RCRRA of any adverse conditions at the Site that would affect or impede the installation of the Artwork.
- 1.8.3 The Artist is responsible for timely installation of the Artwork. The Artist will confer and coordinate with RCRRA staff to ensure timely coordination with the RCRRA's Project construction team. Site access procedures will be identified in coordination with the development of the Artwork design and installation schedule. The Artist may not install the Artwork until authorized to do so by RCRRA staff.
- 1.8.4 The Artist will inform RCRRA of the intent to enter into subcontracts for any part of the installation of the Artwork. Subcontracted work will be assigned a Disadvantaged Business Enterprise (DBE) goal that will be based on the proposed scope of the subcontracted work for the project. Applicable DBE policies and procedures are set forth in **Exhibit 7**.
- 1.8.5 The Artist and any assistants or installation subcontractors shall, at the discretion of the RCRRA, participate in safety training classes for the purpose of accessing construction zones or RCRRA rail rights-of-way.
- 1.8.6 The Artist shall supervise the installation of the Artwork.
- 1.8.7 Upon installation of the Artwork, the Artist shall provide the RCRRA with written instructions for the appropriate maintenance and preservation of the Artwork along with product data sheets for any material or finish used.

1.8.8 Upon written acceptance of the installation by the RCRRA in accordance with the provisions of Section 1.9 herein, the Artwork shall be deemed to be in the custody of the RCRRA for purposes of Article 4 and Article 6 of this Agreement.

1.8.9 The RCRRA is responsible for the proper care and maintenance of the Artwork after written acceptance of the installation

1.9 Approval and Acceptance

1.9.1 The Artist shall notify the RCRRA in writing when all services have been completed in substantial conformity with the requirements of this Agreement and that the Artwork is ready for approval and acceptance.

1.9.2 RCRRA staff shall promptly notify the Artist of its final acceptance of the Artwork within 10 days after the Artist submitted written notice pursuant to Section 1.9.1 above. The effective date of final acceptance shall be the date the RCRRA submits written notice to the Artist of its final acceptance of the Artwork. The final acceptance shall be understood to mean that the RCRRA acknowledges completion of the Artwork in substantial conformity with the Final Design, and that the RCRRA confirms that all services as required of the Artist have been completed.

1.9.3 If the RCRRA disputes that all the services have been performed, the RCRRA shall notify the Artist in writing of those services the Artist has failed to perform within 10 days after the Artist submitted written notice pursuant to Section 1.9.1 above. The Artist shall promptly perform those services indicated by the RCRRA.

1.9.4 If the Artist disputes the RCRRA's determination that not all services have been performed, the Artist shall submit reasons in writing to the RCRRA within 30 days of the RCRRA's notification. The RCRRA shall make reasonable efforts to resolve the dispute with the Artist in good faith. However, final determination as to whether all services have been performed shall remain with the RCRRA.

1.9.5 Upon the resolution of any disputes that arise under this Section 1.9, RCRRA staff shall notify the Artist of its final acceptance of the Artwork.

1.9.6 After final acceptance of the Artwork, the Artist shall be available at such time(s) as may be mutually agreed upon by RCRRA staff and the Artist to attend any public meetings and community outreach functions, as well as any inauguration or presentation ceremonies relating to the dedication of the Artwork. The RCRRA shall be solely responsible for coordinating public information materials and activities related to public presentations.

Article 2 Taxes

Any state or federal sales, use or excise taxes, or similar charges relating to the services and materials under this Agreement shall be paid by the Artist in a timely fashion and in accordance

with all legal requirements. The RCRRA shall report payments made to the Artist annually to the Internal Revenue Department in a 1099 statement.

Article 3 Term of Agreement

3.1 Duration

This Agreement shall be effective on the date that this contract has been signed by both parties, and, unless terminated earlier pursuant to the provisions of this Agreement, shall extend until the completion of obligations by both parties. Provisions of this Agreement that by their nature extend beyond the term of the Agreement shall survive the termination of this Agreement. Extension of time for performance hereunder may be granted upon the request of one Party and the consent of the other thereto, which consent shall not be unreasonably withheld. Such extension shall be in writing, signed by both parties, and shall replace the prior Project Schedule as describe in Section 1.5.2.

3.2 Force Majeure

The RCRRA shall grant to the Artist a reasonable extension of time in the event that conditions beyond the Artist's control render timely performance of the Artist's services impossible or unduly burdensome. All such performance obligations shall be suspended for the duration of the condition. Both parties shall take all reasonable steps during the existence of the condition to assure performance of their contractual obligations when the condition no longer exists. Failure to fulfill contractual obligations due to conditions beyond either Party's reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such conditions.

Article 4 Risk of Loss

The Artist shall bear the risk of loss or damage to the Artwork until the RCRRA's final acceptance of the Artwork under Section 1.9. The Artist shall take such measures as are reasonably necessary to protect the Artwork from loss or damage. The RCRRA shall bear the risk of loss or damage to the Artwork prior to final acceptance only if, during such time, the partially or wholly completed Artwork, by written agreement of the RCRRA, is in the custody, control or supervision of the RCRRA or its agent(s) for the purposes of transporting, storing, installing or performing other services to the Artwork.

Article 5 Artist's Representations and Warranties

5.1 Warranties of Title

5.1.1 The Artist represents and warrants that:

- a. The Artwork is solely the result of the artistic effort of the Artist.
- b. Except as otherwise disclosed in writing to the RCRRA, the Artwork is unique and original and does not infringe upon any copyright or the rights of any person.
- c. The Artwork (or duplicate thereof) has not been accepted for sale elsewhere.

- d. The Artist has not sold, assigned, transferred, licensed, granted, encumbered or utilized the Artwork or any element thereof or any copyright related thereto which may affect or impair the rights granted pursuant to this Agreement.
- e. The Artwork is free and clear of any liens from any source whatsoever.
- f. All Artwork created by the Artist under this Agreement, whether created by the Artist alone or in collaboration with others, shall be wholly original with the Artist and shall not infringe upon or violate the rights of any third party.
- g. The Artist has the full power to enter into and perform this Agreement and to make the grant of rights contained in this Agreement.
- h. All services performed hereunder shall be performed in accordance with all applicable laws, regulations, ordinances, etc. and with all necessary care, skill, and diligence.

5.1.2 These representations and warranties shall survive the termination or expiration of this Agreement.

5.2 Warranties of Quality and Condition

The Artist represents and warrants that:

- 5.2.1 All work will be performed in accordance with professional "workmanlike" standards and free from defective or inferior materials and workmanship (including any defects consisting of "inherent vice," or qualities that cause or accelerate deterioration of the Artwork) for two years after the date of final acceptance by the RCRRA under Section 1.9.
- 5.2.2 The Artwork and the materials used are not currently known to be harmful to public health and safety.
- 5.2.3 Reasonable maintenance of the Artwork will not require procedures substantially in excess of those described in the maintenance and preservation recommendations submitted by the Artist pursuant to Section 1.8.7.
- 5.2.4 If within two years after Final Acceptance the RCRRA observes any breach of warranty described in this Section 5.2 that is curable by the Artist, the Artist shall, at the request of the RCRRA, cure the breach promptly, satisfactorily and consistent with professional conservation standards, at no expense to the RCRRA. The RCRRA shall give notice to the Artist of such breach with reasonable promptness.
- 5.2.5 If within two years after Final Acceptance the RCRRA observes a breach of warranty described in this Section 5.2 that is not curable by the Artist, the Artist is

responsible for reimbursing the RCRRA for damages, expenses and loss incurred by the RCRRA as a result of the breach. However, if the Artist disclosed the risk of this breach in the Proposal and the RCRRA accepted that it may occur, it shall not be deemed a breach for purposes of this Section 5.2 of this Agreement.

5.2.6 If after two years after Final Acceptance the RCRRA observes any breach of warranty described in this Section 5.2 that may be curable by the Artist, the RCRRA, at its discretion, has the option to either:

- a. Contact the Artist to make or supervise repairs or restorations at a reasonable fee; or
- b. Seek the services of a qualified restorative conservator and maintenance expert.

5.3 Acceptable Standard of Display

5.3.1 The Artist represents and warrants that:

- a. General routine cleaning and repair of the Artwork and any associated working parts and/or equipment will maintain the Artwork within an acceptable standard of public display.
- b. Foreseeable exposure to the elements and general wear and tear will cause the Artwork to experience only minor repairable damages and will not cause the Artwork to fall below an acceptable standard of public display.
- c. With general routine cleaning and repair, and within the context of foreseeable exposure to the elements and general wear and tear, the Artwork will not experience conditions that do not fall within an acceptable standard of public display, including mold, rust, fracturing, staining, chipping, tearing, abrading and peeling.
- d. To the extent the Artwork incorporates products covered by a manufacturer's warranty, the Artist shall provide copies of such warranties to the RCRRA.

5.3.2 The foregoing warranties are conditional, and shall be voided by the failure of the RCRRA to maintain the Artwork in accordance with the Artist's specifications and the applicable conservation standards. If the RCRRA fails to maintain the Artwork in good condition, the Artist, in addition to other rights or remedies the Artist may have in equity or at law, shall have the right to disown the Artwork as the Artist's creation and request that all credits be removed from the Artwork and reproductions thereof until the Artwork's condition is satisfactorily repaired.

Article 6 Liability/Insurance

6.1 General

6.1.1 The Artist acknowledges that, except as otherwise provided herein, until final acceptance of the Artwork by the RCRRA under Section 1.9, any injury to

property or persons caused by the Artist's Artwork or any damage to, theft of, vandalism to, or acts of God affecting the Artist's Artwork are the sole responsibility of the Artist, including, but not limited to, any loss occurring during the creation, storage, transportation or delivery of the Artist's Artwork, regardless of where such loss occurs.

6.1.2 Insurance requirements are set forth in **Exhibit 2**.

6.2 Indemnity

6.2.1 The Artist shall indemnify, defend and hold harmless the RCRRA and officials, employees and agents (each a "Covered Person") from and against all liabilities, obligations, losses, damages, judgments, costs or expenses (including legal fees and costs of investigation) (collectively "Losses") arising from, in connection with or caused by:

- a. Any personal injury or property damage caused, directly or indirectly, by any act or omission of the Artist; or
- b. Any infringement of patent, copyright, trademark, trade secret or other proprietary right caused by the Artist.

6.2.2 Notwithstanding the foregoing, Artist shall have no obligation under this Section with respect to any Losses that are caused solely by the active negligence or willful misconduct of the Covered Party and is not contributed to by any act or omission (including any failure to perform any duty imposed by law) by the Artist.

6.2.3 The Artist acknowledges and agrees that its obligation to defend in this Section:

- a. Is an immediate obligation, independent of its other obligations hereunder;
- b. Applies to any Losses which actually or potentially fall within the scope of this Section, regardless of whether the applicable allegations are or may be groundless, false or fraudulent; and
- c. Arises at and continues after the time the Losses are tendered to the Artist.

Article 7 Ownership and Intellectual Property Rights

7.1 Title

Title to the Artwork shall transfer to the RCRRA upon the RCRRA's written final acceptance and payment for the Artwork pursuant to Article 1 and **Exhibit 4**. The Artist shall provide the RCRRA with a Transfer of Title in substantially the form attached hereto and made a part of this Agreement as **Exhibit 6**.

7.2 Ownership of Documents

One set of presentation materials prepared and submitted under this Agreement shall be retained by the RCRRA for possible exhibition and to hold for permanent safekeeping.

7.3 Copyright Ownership

The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C. § 101 et seq., as the sole author of the Artwork for the duration of the copyright.

7.4 Reproduction Rights

7.4.1 In view of the intention that the final Artwork shall be unique, the Artist shall not make any additional exact duplicate two or three-dimensional reproductions of the final Artwork, nor shall the Artist grant permission to others to do so except with the written permission of the RCRRA. However, nothing shall prevent the Artist from creating future Artworks in the Artist's manner and style of artistic expression.

7.4.2 The Artist grants to the RCRRA and its assigns an irrevocable license to make two-dimensional reproductions of the Artwork for non-commercial purposes, including, but not limited to, reproductions used in brochures, media publicity, and exhibition catalogues or other similar publications provided that these rights are exercised in a tasteful and professional manner.

7.4.3 All reproductions by the RCRRA shall contain a credit to the Artist in substantially the following form: [Artist's name, Artwork title, date of publication].

7.4.4 The Artist shall use the Artist's best efforts in any public showing or resume use of reproductions to give acknowledgment to the RCRRA in substantially the following form: "Artwork commissioned by the Ramsey County Regional Railroad Authority, St. Paul, MN."

7.4.5 The Artist shall, at the Artist's expense, cause to be registered with the United States Register of Copyrights, a copyright in the Artwork in the Artist's name.

7.4.6 If the RCRRA wishes to make reproductions of the Artwork for commercial purposes, including, but not limited to, tee shirts, post cards and posters, the Parties shall execute a separate agreement to address the terms of the license granted by the Artist and the royalty the Artist shall receive.

7.4.7 Third Party Infringement. The RCRRA is not responsible for any third party infringement of the Artist's copyright and not responsible for protecting the intellectual property rights of the Artist.

Article 8 Artist's Rights

8.1 General

8.1.1 The Artist retains all rights under state and federal laws including §106A of the Copyright Act of 1976.

8.1.2 The RCRRA agrees that it will not intentionally alter, modify, change, destroy or damage the Artwork without first consulting with the Artist.

8.1.3 If any alteration or damage to the Artwork occurs, the Artist shall have the right to disclaim authorship of the Artwork in addition to any remedies the Artist may have in law or equity under this contract. Upon written request, the RCRRA shall remove the identification plaque and all attributive references to the Artist at its own expense within 30 days of receipt of the written request. No provision of this Agreement shall obligate the RCRRA to alter or remove any such attributive reference printed or published prior to the RCRRA's receipt of such written request. The Artist may take such other action as the Artist may choose in order to disavow the Artwork.

8.2 Alterations of Site or Removal of Artwork

8.2.1 The RCRRA shall notify the Artist of any proposed significant alteration of the Site that would affect the intended character and appearance of the Artwork. The RCRRA shall make a good faith effort to consult with the Artist in the planning and execution of any such alteration. The RCRRA shall make a reasonable effort to maintain the integrity of the Artwork.

8.2.2 The RCRRA agrees not to arbitrarily remove or relocate the Artwork without first making a good faith effort to contact the Artist. The Artist shall not unreasonably withhold approval of removal or relocation of the Artwork. Should the Artist agree to such removal or relocation, the Artist shall provide the RCRRA with written handling instructions. In the event that the Artist is deceased or unable to otherwise give the Artist's consent, the current owner of the copyright of the Artwork shall not unreasonably withhold permission, keeping in mind the intentions of the Artist at the time of commission and fabrication.

8.2.3 This clause is intended to replace and substitute for the rights of the Artist under the Visual Artists' Rights Act to the extent that any portion of this Agreement is in direct conflict with those rights. The parties acknowledge that this Agreement supersedes that law to the extent that this Agreement is in direct conflict therewith.

Article 9 Permanent Record

The RCRRA shall maintain on permanent file a record of this agreement and of the location and disposition of the Artwork.

Article 10 Artist as an Independent Contractor

The Artist agrees to perform all Artwork under this Agreement as an independent contractor and not as an agent or employee of the RCRRA. The Artist acknowledges and agrees that the Artist shall not hold himself or herself out as an authorized agent of the RCRRA with the power to bind in any manner. The Artist shall provide the RCRRA with the Artist's Tax Identification Number and any proof of such number as requested by the RCRRA.

Article 11 Nondiscrimination

The Artist shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, disability, ethnicity, or national origin, in connection with or related to the performance of this Agreement.

Article 12 Assignment of Artwork

The Artwork and services required of the Artist are personal and shall not be assigned, sublet or transferred. Any attempt by the Artist to assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect unless prior written consent is given by the RCRRA. The RCRRA shall have the right to assign or transfer any and all of the RCRRA's rights and obligations under this Agreement if ownership of the Site is transferred.

Article 13 Suspension/Termination

13.1 Either Party may suspend this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such Party's reasonable control such as, but not limited to, acts of nature; war or warlike operations; superior governmental regulation or control, public emergency or strike or other labor disturbance. Notice of suspension of this Agreement shall be given to the other Party in writing not less than 15 days prior to the effective date of the suspension. If the suspension continues for more than 90 days, either party may terminate this Agreement without cause. If this Agreement is terminated, the RCRRA shall pay the Artist for services performed and costs incurred that cannot be eliminated prior to the date of termination, consistent with the schedule of payments set forth in **Exhibit 4** of this Agreement.

13.2 The RCRRA may terminate this Agreement without cause upon 15 days written notice to the Artist. The RCRRA shall pay the Artist for services performed and costs incurred that cannot be eliminated prior to the date of termination, consistent with the schedule of payments set forth in **Exhibit 4** of this Agreement.

13.3 If the Artist willfully or negligently fails to fulfill in a timely and proper manner, or otherwise violate any of the covenants, agreements or stipulations material to this Agreement, the RCRRA shall thereupon have the right to terminate this Agreement by giving written notice to the Artist of its intent to terminate, specifying the grounds for termination. The Artist shall have 30 days after the effective date of the notice to cure the default. If it is not cured by that time, this Agreement shall terminate and the Artist shall return to the RCRRA all payments received from the RCRRA in excess of expenses already incurred. The Artist shall provide an accounting of such expenses along with the reimbursement payment. All finished and unfinished drawings, sketches, photographs and other Artwork products prepared and submitted or prepared for submission by the Artist under this Agreement shall be retained by the Artist. The RCRRA shall retain the right to have the Artwork completed, fabricated, executed, delivered and installed. However, the Artist shall retain the copyright in the Artwork and all rights under Article 7 and Article 8.

13.4 Upon notice of termination, the Artist and his or her subcontractors shall cease all activities under this Agreement.

Article 14 Death or Incapacity

If the Artist becomes unable to complete this Agreement due to death or incapacitation, such death or incapacity will not be deemed a breach of this Agreement or a default on the part of the Artist for the purpose of Article 13. However, nothing in this Article shall obligate the RCRRA to accept the Artwork. In the event of death of the Artist, this Agreement shall terminate as of the date of death; in the event of incapacity, the Agreement shall terminate upon expiration of 90 days of incapacity. The RCRRA shall pay the Artist, the Artist's heirs, or the Artist's estate, as appropriate, for all services and work delivered in a satisfactory manner and in accordance with the provisions of this Agreement prior to the Artist's death or first day of incapacity.

Article 15 Compliance with Applicable Law

The Artist 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 Artist's performance of the provisions of this Agreement, including the provisions of the specific **Federal Requirements**, attached hereto and made a part of this Agreement as **Exhibit 8**. It shall be the obligation of the Artist 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.

Article 16 Notices and Documents

Notices required under this Agreement shall be delivered personally or through the [registered or certified mail, return receipt requested] mail, postage prepaid, to the addresses stated below, or to any other address as may be noticed by a Party pursuant to the provisions of this Article:

For the RCRRA:

Josh Collins or successor
Ramsey County Regional Railroad Authority
Suite 6560 RCGC-West
50 W. Kellogg Blvd
St. Paul, MN 55102

For the Artist:

ARTIST NAME
ARTIST ADDRESS

Notice shall be deemed effective on the date personally delivered or, if mailed, on the date the return receipt is signed.

Article 17 Waiver

The Parties agree that a waiver of any breach of violation of any term or condition of this Agreement shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term of condition.

Article 18 Audit

- 18.1 Until the expiration of six (6) years after the furnishing of services pursuant to this Agreement, the Artist, upon written request, shall make available to the RCRRA, the State Auditor or the RCRRA's ultimate funding sources, a copy of this Agreement and the books, documents, records and accounting procedures and practices of the Artist relating to this Agreement.
- 18.2 The Artist shall maintain all books, documents, records and accounting procedures and practices of the Artist relating to this Agreement for a period of six years from the date of transfer of title following acceptance and final payment is made. Those records subject to an audit shall be maintained until the audit is resolved, even if this period extends beyond the six years stated. All records shall be made available for inspection or audit, at any time during regular business hours, upon written request by the RCRRA's General Counsel or designated representative, the State Auditor or the County's ultimate funding sources.

Article 19 Data Practices

All data collected, created, received, maintained or disseminated for any purpose in the course of the Artist's performance of this 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.

Article 20 Conflict of Interest

The Artist and the RCRRA shall avoid all conflicts of interest or appearance of conflicts of interest in the performance of this Agreement.

Article 21 Arbitration

- 21.1 If, during the creation of the Artwork, its installation and subsequent existence, either Party breaches this Agreement, each Party agrees to submit to arbitration upon the request of the other, provided that the breach is not cured within a reasonable time under Section 13.3 of this Agreement.
- 21.2 If an ambiguity arises regarding this Agreement upon which the parties cannot agree or a dispute arises as to the completion of a provision, the Parties shall submit the matter to arbitration.
- 21.3 Each Party agrees to be responsible for its own attorney's fees and costs.

Article 22 Amendments

No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing and signed by both Parties hereto in the form of an amendment to this Agreement.

Article 23 Conflicts of Law

If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall be held by a court of competent jurisdiction or arbitration panel or

mediation procedure to be in conflict with the laws, rules, and/or regulations of the United States or the State of Minnesota, invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby to the extent the remainder of the terms, covenants, conditions or provisions of this Agreement are capable of execution.

Article 24 Interpretation of Agreement; Venue

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

Article 25 Prompt Payment

Payment of interest on late payments and disputes regarding payments shall be governed by the provisions of Minn. Stat. Section 471.425.

Article 26 Contractor Certification Regarding Debarment, Suspension, and Responsibility (If applicable)

Federal Regulation 45 CFR 92.35 prohibits the RCRRRA from purchasing goods or services with federal money from vendors who have been suspended or debarred by the federal government.

By signing this Agreement, the Artist certifies that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transacting business by or with any federal, state or local governmental department or agency; and
2. Have not within a three-year period preceding this Agreement:
 - a. 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;
 - b. violated any federal or state antitrust statutes; or
 - c. committed embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; and
3. Are not presently indicted or otherwise criminally or civilly charged by a governmental entity for:
 - a. commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction;
 - b. violating any federal or state antitrust statutes; or
 - c. committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; and

4. Have not had one or more public transactions terminated with in the preceding three years for cause or default; and
5. Shall not knowingly enter into any transaction with a subcontractor who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and that they will require any subcontractor that receives more than \$100,000 to make a similar certification as set forth herein; and
6. Are not aware of any information and possess no knowledge that any subcontractor(s) that will perform work pursuant to this Agreement are in violation of any of the certifications set forth above; and
7. Shall immediately give written notice to the RCRRA should the Artist come under investigation for allegations of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local government) transaction; violating any federal or state antitrust statutes; or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

Article 27 Non-Conforming Services

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

Article 28 Unavailability of Funding

The purchase of goods or services from the Artist under this Agreement is subject to the availability and provision of funding from the United States, the State of Minnesota, or other funding sources, and the appropriation of funds from the RCRRA Board. The RCRRA may immediately terminate this Agreement if the funding for the Artwork is no longer available or is not appropriated by the RCRRA Board. Upon receipt of the RCRRA's notice of termination of the Agreement the Artist shall take all actions necessary to discontinue further commitments of funds to the Agreement. Termination shall be treated as termination without cause and will not result in any penalty or expense to the RCRRA.

Article 29 Prevailing Wage

The Artist and all subcontractors shall conform to the labor laws of the State of Minnesota, and all other laws, ordinances, and legal requirements affecting the work in Ramsey County and Minnesota. The minimum wage rate per hour to be paid for each classification of work shall be the union wage rate in the locality of the project for those classifications over which the unions have jurisdiction and the local prevailing rate for those classifications of work in the localities over which the unions do not have jurisdiction.

Article 30 Respectful Workplace and Violence Prevention

The Artist shall make all reasonable efforts to ensure that the Artist's employees, officials and subcontractors do not engage in violence while performing under this Agreement. Violence, as defined in the Ramsey County Respectful Workplace and Violence Prevention Policy, means 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.

Article 31 Subcontractor Payment

The Artist shall pay any subcontractor within ten days of the Artist's receipt of payment from the RCRRA for undisputed services provided by the subcontractor. The Artist 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 Artist shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from the Artist must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

Article 32 Lobbying

For all contracts involving over \$100,000 in federal funds, the Artist must sign the Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements, attached hereto and made a part of this Agreement as **Exhibit 8**.

Article 33 Entire Agreement

This Agreement, including the exhibits, comprises all of the covenants, promises, agreements, and conditions between the parties. No verbal agreements or conversations between the Parties prior to the execution of this Agreement shall affect or modify any of the terms or obligations.

WHEREFORE, this Agreement is duly executed on the last date written below.

RAMSEY COUNTY REGIONAL RAIL AUTHORITY

Jim McDonough, Chair
Ramsey County Regional Railroad Authority

Bonnie Jackelen, Chief Clerk
Board of County Commissioners

Date: _____

Approval recommended:

Timothy Mayasich, Director

ARTIST FIRM

By: _____
Print Name: _____
Its: TITLE _____

Date: _____

Ramsey County Regional Rail Authority

Approved as to form and insurance:

Assistant County Attorney

Exhibit 1
Refined Design Concept and Budget Proposal

(To be incorporated into the contract as provided in Section 1.3.1 of the forgoing contract
to which this exhibit is attached.)

Exhibit 2
Insurance Requirements

The Artist shall obtain and maintain for the duration of the contract, an insurance policy or policies for the protection of both the **Artist** and the **RCRRA**. The **RCRRA** requires certification of insurance coverage from all Artists/subArtists, Sub-contractors and suppliers before commencing work. All subcontractors used for the installation shall provide certificates of insurance evidencing General Liability, Workers Compensation, and automobile coverage prior to installation with the RCRRA and Ramsey County as property manager added as an additional insured with respect to installation of the artwork.

Please carefully review the requirements outlined.

IT IS HIGHLY RECOMMENDED THAT YOU CONFER WITH YOUR INSURANCE BROKER/AGENT OR OTHER INSURANCE COMPANY REPRESENTATIVE, BEFORE SUBMITTING YOUR BID, TO DETERMINE THE AVAILABILITY AND APPLICABLE COST, IF ANY, OF CERTIFICATES, ENDORSEMENTS, COVERAGES, AND LIMITS REQUIRED.

1. MINIMUM SCOPE AND EXTENT OF COVERAGE

A. GENERAL LIABILITY

Commercial General Liability, ISO coverage form number **CG 00 01** ("occurrence" basis).

\$ 1,000,000 limit per occurrence for bodily injury, personal injury, and property damage; **\$1,000,000** annual aggregate

The Ramsey County Regional Rail Authority, its commissioners, officers, officials, agents, and employees, shall be endorsed as **additional insureds** by ISO Form **CG 20 26 -- ADDITIONAL INSURED -- DESIGNATED PERSON OR ORGANIZATION** or equivalent. As additional insureds, they shall be covered as to work performed by or on behalf of the **Artist** or as to liability which arises out of **Artist's** activities or resulting from the performance of services or the delivery of goods called for by the **Contract**.

B. AUTOMOBILE LIABILITY (IF APPLICABLE)

Business Auto or Personal Automobile Liability insurance

\$1,000,000 limit per occurrence covering bodily injury and property damage.

C. WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY (IF APPLICABLE)

Statutory Workers' Compensation insurance for all states where Proposer has work

locations and standard Employer's Liability insurance, *if required by state law.*

D. PROFESSIONAL LIABILITY – REGISTERED STRUCTURAL ENGINEER
(IF APPLICABLE)

D.1 Per Claim \$1,000,000
Aggregate Limit: \$2,000,000

D.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 Agreement; and 2) evidence of coverage shall be provided for three years beyond expiration of this Agreement.

E. PROPERTY

The Artist shall maintain property coverage on an all-risk basis and shall add the RCRRA as a loss payee as the RCRRA's interest in the Artwork may appear. This interest shall be based on the payments made according to **Exhibit 4** for the commissioned Artwork as defined in the contract between the Artist and the RCRRA. The Artist shall keep this policy in effect until the RCRRA's final acceptance of the Artwork under Article 4 Risk of Loss.

2. INSURER QUALIFICATIONS/ACCEPTABILITY

The insurance required hereunder shall be issued by an **A.M. Best "A-" rated, Class VI** insurance company licensed to conduct insurance business in the state of Minnesota.

3. VERIFICATION OF INSURANCE COVERAGE

Prior to commencing work, the **Artist** shall furnish the **RCRRA** with CERTIFICATE(S) OF INSURANCE (including a Professional Liability insurance certificate from Registered Structural Engineer) and with any applicable original endorsements evidencing the required insurance coverage. A person authorized by that insurer to bind coverage on its behalf must sign the insurance certificates and endorsements. All certificates and endorsements received by the **RCRRA** are subject to review and approval by the Ramsey County Attorney's Office. The **RCRRA** reserves the rights to require complete, certified copies of all required policies at any time. If the scope of this contract will exceed one (1) year—or, if any of **Artist's** applicable insurance coverage expire prior to completion of the work or services required under this contract—the **Artist** will provide a renewal or replacement certificate before continuing work or services hereunder.

4. NON-WAIVER

Nothing in this Agreement shall constitute a waiver by the **RCRRA** of any statutory or common law immunities, limits, or exceptions on liability.

Exhibit 3
Final Design

**(To be developed and incorporated into the contract as provided in Section 1.3.4 of the
forgoing contract to which this exhibit is attached)**

[This exhibit will identify the location of the Artwork and will provide a detailed narrative describing the proposed artwork with explicit detail regarding the overall form or design, scale, dimensions, color and surface treatment of the Artwork.]

Exhibit 4

Fee and Payment Schedule

The RCRRA shall pay the Artist a fixed fee of AMOUNT OF CONTRACT (\$X), which shall constitute full and complete compensation for all the services performed and materials furnished by the Artist under this Agreement. Payment shall be made in accordance with the following scheduled installments, each installment representing full and final payment for all services and materials provided prior to payment thereof:

- a. \$X upon the execution of this Agreement, recognizing that the Artist will invest time and expense in preparing the Design as set forth in Section 1.3 of the Agreement;
- b. \$X upon the RCRRA's notification to the Artist of its approval of the Final Design as set forth under Section 1.3 and issuance of a Notice to Proceed with Fabrication and Installation;
- c. \$X within 30 days after the Artist notifies the RCRRA that the Artwork fabrication is 50% complete and provides photographic or other reasonable documentation as requested by the RCRRA;
- d. \$X within 30 days after the Artist notifies the RCRRA that the Artwork is fabricated and ready for delivery and installation at the Site as set forth under Section 1.5(f);
- e. \$X within 30 days after final acceptance of the Artwork by the RCRRA as set forth under Section 1.8(e).

Exhibit 5

Project Schedule

(To be developed and incorporated into the contract as provided in Section 1.5.1 of the forgoing contract to which this exhibit is attached.)

Exhibit 6
Transfer of Title

STATE OF MINNESOTA
COUNTY OF RAMSEY

TRANSFER OF TITLE

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the undersigned Artist located at the address noted below does hereby sell, transfer and convey to the RCRRA, located in St. Paul, Minn., its assigns and successors, all right, title and interest in the ownership of the Artwork commissioned by the Ramsey County Regional Railroad Authority and as described in the agreement between the parties.

Title: _____
Location: _____

IN WITNESS WHEREOF, the Artist has executed this written transfer of title on this _____ day of _____, 20__.

ARTIST

ADDRESS

WITNESS

Sworn to and subscribed
before me this _____ day
of _____, 20__.

NOTARY PUBLIC

My Commission Expires:
(NOTARY SEAL)

Exhibit 7

Federal DBE Requirements

1. **Artwork Disadvantaged Business Enterprise Requirements** (FTA Funding with DBE Goal – APPLICABLE TO SUBCONTRACTED WORK ONLY)

- A. General Requirement.** This contract is funded in part with a grant from the Federal Transit Administration (FTA), whose funds are administered locally by the Metropolitan Council ("Council"), and provided to the RCRRA through a sub-recipient grant agreement. For this project, the Disadvantaged Business Enterprise (DBE) requirements of the Transportation Equity Act for the 21st Century (TEA-21) and 49 CFR part 26 will apply only to subcontracted portions of the Artwork project. Under 49 CFR section 26.51, the Council will establish a goal for DBE participation for work that will be subcontracted by the Artist. The DBE goal will be based on the proposed scope of subcontracted work for the Artwork.

Selected artists who subcontract work will be required to make good faith efforts to meet the established DBE goal. Good faith efforts may be demonstrated by either:

- 1) documenting the participation of specific DBEs to meet the goal; or
- 2) documenting adequate good faith efforts to meet the goal, even if the efforts were not successful in obtaining sufficient DBE participation to meet the goal.

B. Documenting Good Faith Efforts

Participation of DBE. If the Artist will be using a DBE the Artist must list all firms, if any, whose participation is committed to be credited toward meeting the DBE goal. All DBE firms which are listed must, as of the date the information is provided by the Artist to the RCRRA, be:

- 1) certified by the Minnesota Unified Certification Program (MnUCP) as a DBE; or
- 2) certified by any other United States Department of Transportation (USDOT) recipient and then certified by the MnUCP; or
- 3) included on the MnUCP **Disadvantaged Business Enterprise (DBE) Directory**. All of the firms on this listing shall be considered "currently certified" for the purposes of proposal submittal. This listing is available from the Council and can also be found at the following website:

<http://www.dot.state.mn.us/civilrights/ucpdirectory.html>

Adequate Good Faith Efforts. If the Artist will not be using a DBE, the Artist must show that it took all necessary and reasonable steps to achieve a DBE goal which, by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if it was not fully successful.

The Council's DBE Liaison Officer will determine whether the Artist made sufficient good faith efforts to meet the goal in accordance with the guidelines set forth in 49 CFR section 26.53, and Appendix A thereto.

Compliance will be determined based on a review of documentation of the following types of activities:

- 1) Soliciting through all reasonable and available means (e.g. attendance at pre-proposal meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the subcontracted work related to the Artwork. The Artist must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The Artist must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
- 2) Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the Artist might otherwise prefer to perform these work items with its own forces. The Artist is not required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
- 3) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state and Federal offices of minority/women business assistance; and other organizations as allowed on a case-by-case basis to provide assistance in the solicitation of DBEs.

Exhibit 8

Specific Federal Requirements

(continued on following eight pages)

SPECIFIC FEDERAL REQUIREMENTS

FTA-1 Fly America Requirements. The Contractor agrees to comply with 49 U.S.C. § 40118 (the "Fly America Act") in accordance with the General Services Administration's regulations at 41 C.F.R. part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

FTA-2 Energy Conservation. The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the federal Energy Policy and Conservation Act.

FTA-3 Access to Records and Reports. The Contractor agrees to provide the Council, the FTA Administrator, the Comptroller General of the United States, and any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The Contractor also agrees, pursuant to 49 C.F.R. § 633.15, to provide the FTA Administrator or the Administrator's authorized representatives, including any project management oversight (PMO) contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. § 5302(a)(1), which is receiving federal financial assistance through the programs described at 49 U.S.C. §§ 5307, 5309, or 5311.

The Contractor agrees to permit any of the foregoing parties to reproduce such documents by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. In addition to any other requirements for maintenance of project records and documents in this contract, the Contractor agrees to maintain such records and documents until the Council, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives have disposed of all litigation, appeals, claims or exceptions arising from the performance of this contract

FTA-4 Federal Changes. The Contractor shall at all times comply with the required FTA clauses set forth in this contract and with all applicable FTA regulations, policies, procedures and directives including, without limitation, those listed directly or by reference in the Master Agreement between the Council and FTA, as they may be amended or promulgated from time to time during the term of this contract. The Contractor's failure to so comply shall constitute a material breach of this contract.

FTA-5 Recovered Materials. The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. § 6962), including but not limited to the regulatory provisions of 40 C.F.R. part 247, and Executive Order 12873, as they apply to the procurement of the items designated in subpart B of 40 C.F.R. part 247.

FTA-6 No Obligation by the Federal Government. The Council and the Contractor acknowledge and agree that, notwithstanding any concurrence by the federal government in or approval of the solicitation or award of this contract, absent the express written consent by the federal government, the federal government is not a party to this contract and shall not be subject to any obligations or liabilities to the Council, the Contractor, or any other party (whether or not a party to the contract) pertaining to any matter resulting from this contract. The Contractor agrees to include the preceding clause in each subcontract under this contract and that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

FTA-7 Program Fraud and False or Fraudulent Statements or Related Acts. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.*, and USDOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this contract. Upon execution of this contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Federal Government reserves the right to impose the penalties of 18 U.S.C. § 1001, 49 U.S.C. § 5307(k)(1), 49 U.S.C. § 5323(l) or other applicable federal law on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above language in each subcontract under this contract and that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

FTA-8 Civil Rights. The following requirements apply to this contract:

- 1. Nondiscrimination.** In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d *et seq.* and USDOT regulations "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of

Title VI of the Civil Rights Act," 49 C.F.R. part 21, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable federal implementing regulations and other implementing requirements FTA may issue.

2. Equal Employment Opportunity. The following equal employment opportunity requirements apply to this contract:

a. Race, Color, Creed, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of this contract. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

b. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

c. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, pertaining to

employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. Inclusion in Subcontracts. The Contractor agrees to include the requirements of this Section FTA-8 in each subcontract under this contract, modified only to identify the subcontractor that will be subject to the provisions.

FTA-9 Disadvantaged Business Enterprise ("DBE")

1. Nondiscrimination. Pursuant to 49 C.F.R. § 26.13, the Contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the Council deems appropriate. The Contractor shall include this requirement in all subcontracts pursuant to this contract.

2. Prompt Payment. The Contractor agrees to pay subcontractors within 10 calendar days of the Contractor's receipt of payment from the Council for undisputed services provided by the subcontractor. The Contractor agrees to pay subcontractors all undisputed retainage payments within 10 calendar days of the Contractor's receipt of payment of retainage from the Council. The Contractor shall not postpone or delay any undisputed payments owed subcontractors without good cause and without prior written consent of the Council. The Contractor agrees to include in all subcontracts a provision requiring the use of appropriate alternative dispute resolution mechanisms to resolve payment disputes. The Contractor will not be reimbursed for work performed by subcontractors unless and until the Contractor ensures that subcontractors are promptly paid for work they have performed. Failure to comply with the provisions of this section may result in the Council finding the Contractor in noncompliance with the DBE provisions of this contract.

FTA-10 Incorporation of FTA Terms. Specific provisions in this contract include, in part, certain standard terms and conditions required by USDOT, whether or not expressly set forth in the contract provisions. All contractual provisions required by USDOT, as set forth in 49 C.F.R. § 18.36 and FTA Circular 4220.1F, are hereby incorporated by reference. Notwithstanding anything to the contrary in this contract, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Council requests which would cause the Council to be in violation of the FTA terms and conditions.

FTA-10a National Intelligent Transportation Systems Architecture and Standards. To the extent applicable, the Contractor agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and to comply with FTA Notice, "FTA National ITS Architecture Policy on Transit

Projects" 66 Fed. Reg. 1455 *et seq.*, January 8, 2001, and other Federal requirements that may be issued.

FTA-11 Clean Water. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 *et seq.* The Contractor agrees to report each violation to the Council and understands and agrees that the Council will, in turn, report each violation as required to assure notification to the FTA and the appropriate Environmental Protection Agency (EPA) Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

FTA-12 Certification of Restrictions on Lobbying; Disclosure. The Contractor certifies that no federal appropriated funds have been paid or will be paid by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an 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 cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement. The certification of this compliance ("Lobbying Restriction Certification") submitted by the Contractor in connection with this project is incorporated into, and made a part of, this agreement.

The Contractor further certifies that, 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 or any federal 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 cooperative agreement, the Contractor shall complete and submit to the Council, Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor certifies that it will require the language of this certification be included in the award documents for any subcontracts equal to or in excess of \$100,000.00 under this agreement, and that all subcontractors shall certify and disclose accordingly to the Contractor.

The certifications referred to in this section (including the "Lobbying Restriction Certification" submitted by the Contractor in connection with this project and incorporated in, and made a part of, this agreement) are material representations of fact upon which the Council relies when this contract is made.

FTA-13 Clean Air. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.* The Contractor agrees to report each violation to the Council and understands and agrees that the Council will, in turn, report each violation as required to assure notification to the FTA and the appropriate Environmental Protection Agency (EPA) Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

FTA-14 Suspension and Debarment. This contract is a covered transaction for the purposes of 2 C.F.R. part 1200. By executing this contract, the Contractor certifies that none of the Contractor, its principals, as defined at 2 C.F.R. § 180.995, or affiliates, as defined at 2 C.F.R. § 180.905, are disqualified or excluded as defined at 2 C.F.R. §§ 180.935 and 180.940. The certification in this clause is a material representation of fact relied upon by the Council. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to Council, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 C.F.R. part 180, subpart C throughout the term of this contract. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

FTA-15 [Reserved].

FTA-16 [Reserved].

FTA-17 Buy America. The Contractor agrees to comply with 49 U.S.C. § 5323(j) and 49 C.F.R. part 661, which provide that federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. § 5323(j)(2)(C) and 49 C.F.R. § 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

FTA-18 Cargo Preference. The Contractor agrees: (a) to use privately-owned United States-Flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; (b) to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill of lading in English for each shipment of cargo described in the preceding paragraph (a) to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the Council (through the Contractor in the case of a lower-tier participating subcontractors bill of lading); and (c) to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

FTA-19 [Reserved].

FTA-20 Contract Work Hours and Safety Standards Act.

(1) **Overtime Requirements.** No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek, unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) **Violation; Liability for Unpaid Wages; Liquidated Damages.** In the event of any violation of the clause set forth in paragraph (1) of this section, the Contractor and any subcontractor responsible for a violation shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) **Withholding for Unpaid Wages and Liquidated Damages.** The Council shall, upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of the Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) **Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

(5) **Safety Standards.**

(i) **General Requirement.** The Contractor agrees to comply with section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 3704, and applicable Department of Labor regulations, "Safety and Health Regulations for Construction" 29 C.F.R. part 1926. Among other things, the Contractor agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions.

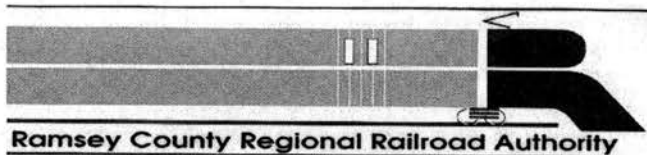
(ii) **Subcontracts.** The Contractor also agrees to include the requirements of this paragraph (5) in each subcontract. The term "subcontract" under this paragraph (5) is considered to refer to a person who agrees to perform any part of the labor or material requirements of a contract for construction, alteration or repair. A person who undertakes to perform a portion of a contract involving the furnishing of supplies or materials will be considered a "subcontractor" under this paragraph (5) if the work in question involves the performance of construction work and is to be performed: (1) directly on or near the construction site, or (2) by the employer for the specific project on a customized basis. Thus, a supplier of materials which will become an integral part of the construction is a "subcontractor" if the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the work involved may be said to be construction activity. If the goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a "subcontractor." The requirements of this paragraph (5) do not apply to contracts or subcontracts for the purchase of supplies or materials or articles normally available on the open market.

FTA-21 [Reserved]

FTA-22 Pre-Award and Post Delivery Audit Requirements. The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. part 663 and to submit the following certifications:

1. Buy America Requirements. The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

2. Solicitation Specification Requirements. The Contractor shall submit evidence that it will be capable of meeting the bid specifications.



3

REQUEST FOR ACTION

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

Regional Railroad Authority Meeting Date: 09/25/2012

Regional Railroad Authority Meeting Date: _____

SUBJECT: East Metro Rail Capacity Study - Presentation

EXECUTIVE SUMMARY:

In 2010, the Ramsey County Regional Railroad Authority (RCRRA) in cooperation with the Red Rock Corridor Commission, BNSF Railway, Canadian Pacific Railway (CP), Union Pacific Railroad (UP), Amtrak, and others began work on the East Metro Rail Capacity Study. The \$2.1 million dollar study is nearing completion with a final report due in October, 2012. The Study was undertaken to identify the capacity improvements needed to maintain freight speeds while allowing for the addition of high-speed and commuter trains.

The study area infrastructure includes the Robert Street Bridge, Hoffman Interlocking, Westminster Junction, and the rail yards to the southeast of Union Depot. Together, this infrastructure handles 5% of the nation's freight volume and is home to both CP's and BNSF's transcontinental mainlines between the Pacific Northwest and Chicago.

Currently, over 110 freight trains and two Amtrak Empire Builder trains utilize the corridor every day. The freights have projected their business to grow by 36% over the coming years resulting in over 160 daily trains in addition to twenty-two high-speed and commuter trains.

The study included significant involvement of the freight railroads and other stakeholders to develop its recommendations for addressing the corridor's capacity constraints. Ultimately, the Study resulted in the identification of a single set of capacity improvements that are be needed to address freight needs and allow for additional passenger trains. This set of improvements has been broken down into three phases that allow the improvements to be implemented as they are needed and as funding becomes available.

(The Executive Summary is continued on the following page)

ACTION REQUESTED

None. For information and discussion only.

1

SUBJECT: East Metro Rail Capacity Study - Presentation

(Executive Summary continued from previous page)

- Phase 1: Hoffman Interlocking upgrades, new main tracks, yard improvements, passenger flyover into Union Depot, CP siding, UP/CP interchange, new UP siding/main improvements
- Phase 2: All of Option 1.5 Plus extension of new main track south, upgrade of switches/crossovers, reconfiguration of Newport and St. Croix Junctions
- Phase 3: All of Phases 1 and 2 plus further extension of new main track south, second railroad bridge across the Mississippi River, St. Croix flyover, relocation of BNSF main track

An overview of the study and its findings will be presented at the Board meeting.

SUBJECT: East Metro Rail Capacity Study - Presentation

ATTACHMENTS:

East Metro Rail Capacity Study Presentation

PREVIOUS ACTION:

RCRRA Resolution R09-53 authorized the County Manager to issue a Request for Proposals for an East Metro Rail Capacity and Engineering Improvements Study.

RCRRA Resolution R10-24 approved the selection of TranSystems Corporation Consultants and authorized staff to enter into contract negotiations for completion of the East Metro Rail Capacity and Engineering Improvements Study.

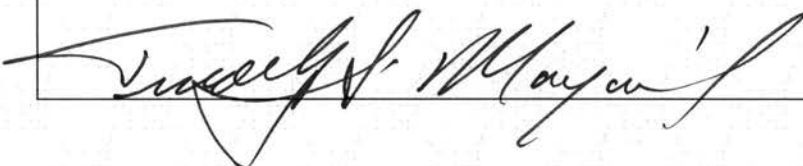
RCRRA Resolution R09-39 approved the Subrecipient Grant Agreement # SG-2009-050 with the Metropolitan Council (the entire agreement is on file with the RCRRA office).

RCRRA Resolution R11-37 approved the execution of a contract amendment with TranSystems Corporation Consultants to increase the amount of the contract to \$2.1 million and extend the term.

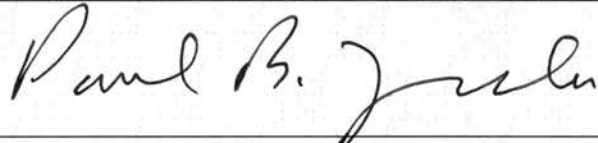
COUNTY MANAGER'S COMMENTS:

The RCRRA has identified the completion of the East Metro Study as a high priority. The completion of this study will benefit the Union Depot, Red Rock Corridor, high-speed rail, and passenger rail by analyzing and identifying capacity improvements needed to accommodate freight and passenger rail on the existing freight rail network from the Union Depot southeast to Hastings. This area includes Hoffman Interlocking and averages 10,000 freight cars a day, or 5% of the nation's freight volume. Capacity improvements to the study area are critical to the economic competitiveness of Ramsey County, the Twin Cities, and Minnesota.

SUBJECT: East Metro Rail Capacity Study - Presentation

Regional Railroad Authority – Authorized Signature	Date
	9/19/12

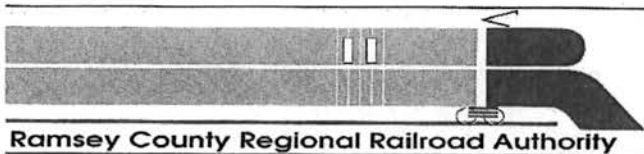
Budgeting & Accounting – Authorized Signature	Date
	9/17/12

County Attorney – Authorized Signature	Date
	9/19/12

Property Management – Authorized Signature	Date

Information Services – Authorized Signature	Date

Other – Authorized Signature	Date



3

REQUEST FOR ACTION

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

Regional Railroad Authority Meeting Date: **09/25/2012**

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SUBJECT: East Metro Rail Capacity Study - Presentation

(Executive Summary continued from previous page)

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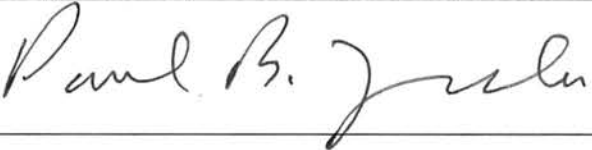
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SUBJECT: East Metro Rail Capacity Study - Presentation

Regional Railroad Authority – Authorized Signature	Date
	9/19/12

Budgeting & Accounting – Authorized Signature	Date
	9/17/12

County Attorney – Authorized Signature	Date
	9/19/12

Property Management – Authorized Signature	Date

Information Services – Authorized Signature	Date

Other – Authorized Signature	Date

EAST METRO RAIL
CAPACITY STUDY

East Metro Rail Capacity Study

**Ramsey County Regional Railroad
Authority**

September 25, 2012



EAST METRO RAIL CAPACITY STUDY



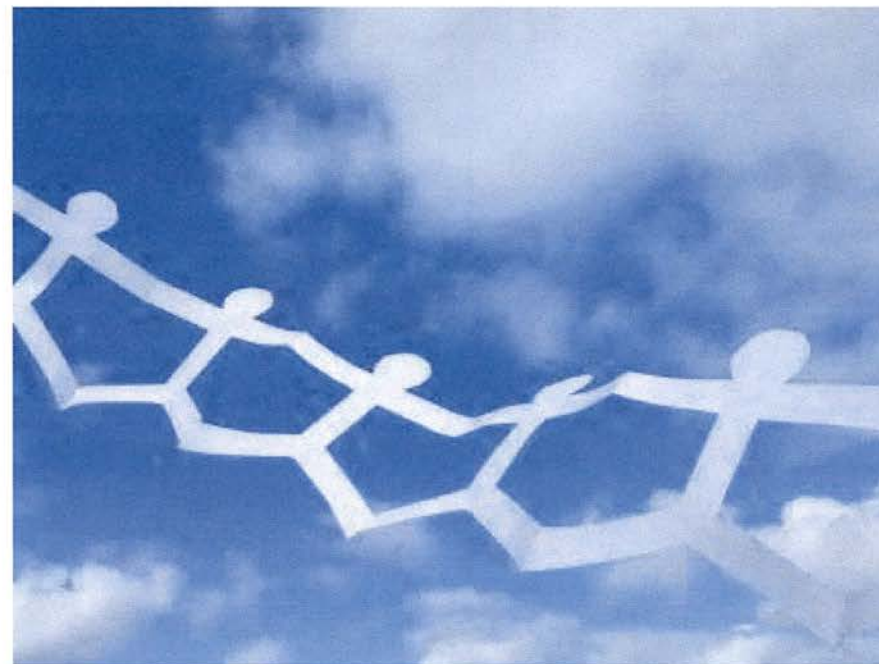
CANADIAN PACIFIC



Minnesota Commercial Railway



Metropolitan Council



St. Paul Park



Hastings

Maplewood

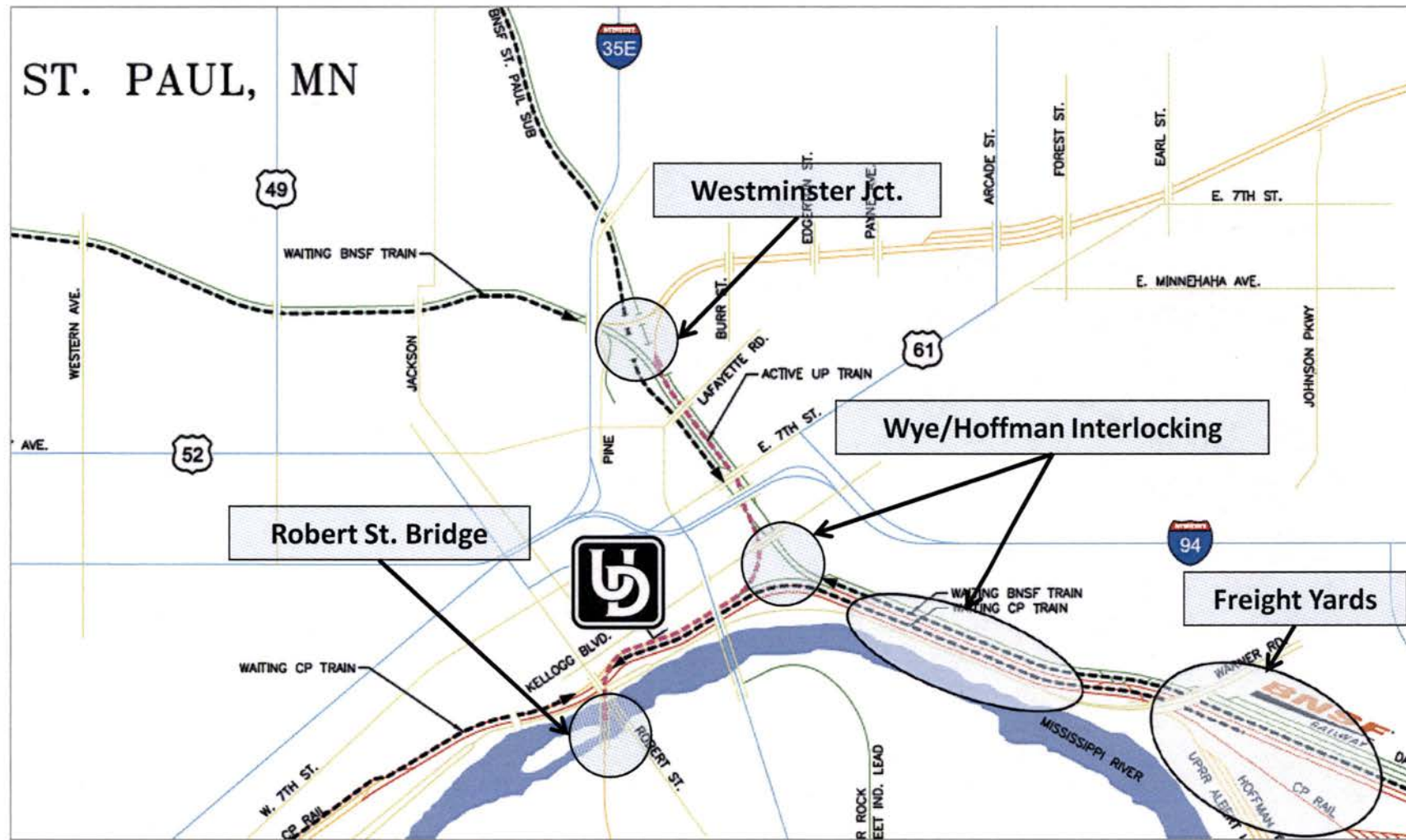


Washington County



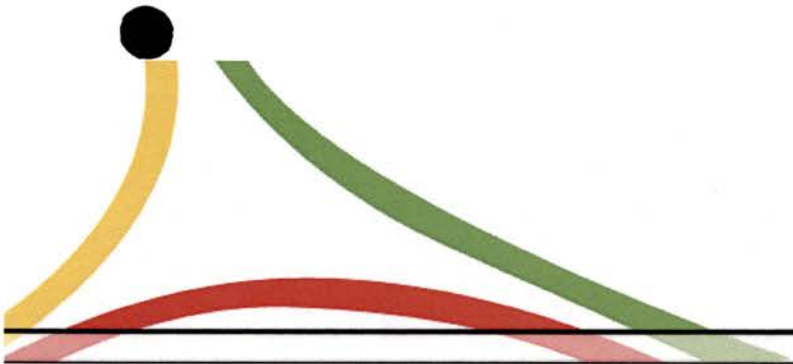


EAST METRO RAIL CAPACITY STUDY



Study Objectives:

- Identify contributors to congestion
- Identify capacity solutions to address the long-term needs first
- Address technical issues and constructability
- Identify phasing opportunities



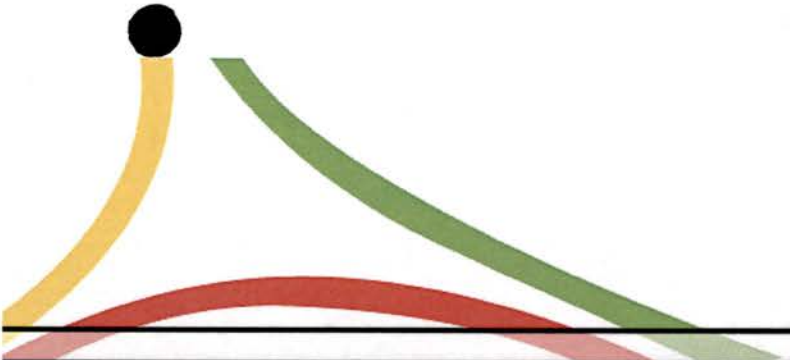
EAST METRO RAIL CAPACITY STUDY

The Study Answers the following questions:

“What Capacity Improvements are Needed to Implement Commuter and Higher Speed Intercity Passenger Rail?”

“How Will Impacts to Freight Railroads be Mitigated?”

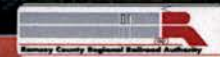
“How can Capacity Improvements be Phased so that they are Implemented Only as Needed?”



EAST METRO RAIL CAPACITY STUDY

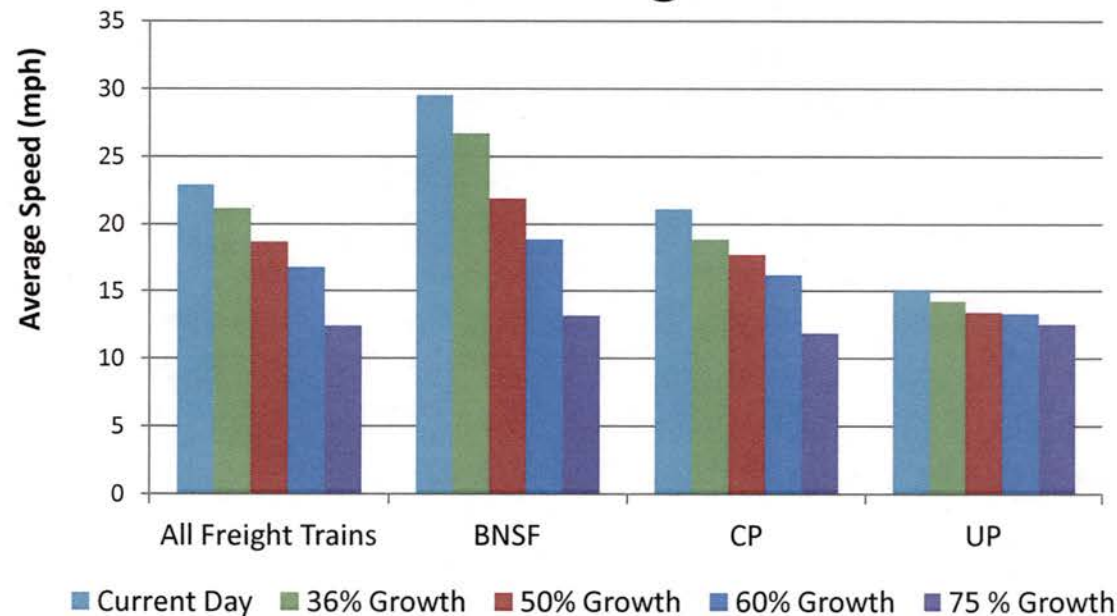
Study Approach:

- Must accommodate existing freight trains
 - (150+ existing freight moves in Hoffman Area)
 - 10,000 freight cars a day
 - Yard Operations (BNSF, CP, UP)
- Must accommodate existing passenger trains
- Must accommodate growth
 - 36% freight growth
 - 10 Red Rock trains
 - 12 higher speed trains to Chicago
- Graduated approach to improvements



EAST METRO RAIL CAPACITY STUDY

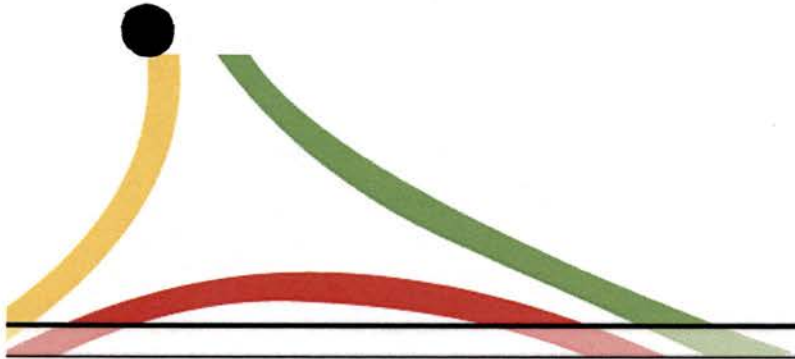
Freight Train Speed Suffers with Added Freight Volume



- 118 daily trains (2006); 169 daily trains forecast (36% growth)
- Significant speed reductions due to congestion
- Infrastructure improvements are need to accommodate growth

Proposed Improvements

- Phase 1:** Hoffman Interlocking upgrades, new main tracks, yard improvements, passenger flyover into Union Depot, CP siding, UP/CP interchange, new UP siding/main improvements
- Phase 2:** All of Phase 1, plus extension of new main track south, upgrade of switches/crossovers, reconfiguration of Newport and St. Croix Junctions
- Phase 3:** All of Phases 1 and 2 plus further extension of new main track south, second railroad bridge across the Mississippi River, St. Croix flyover, relocation of BNSF main track



EAST METRO RAIL CAPACITY STUDY

Passenger Traffic = Empire Builder plus
Red Rock plus
Amtrak Higher Speed Intercity

Infrastructure	Average Freight Train Speed (mph)	% Change of Average Freight Train Speed Over (Under) Baseline
Option 1 (no build)	17.6	(20%)
Option 1.5 (Phase 1)	21.4	(3%)
Option 3 (Phase 2)	23.5	6%
Option 5A (Phase 3)	26.4	19%

Legend



Well below baseline



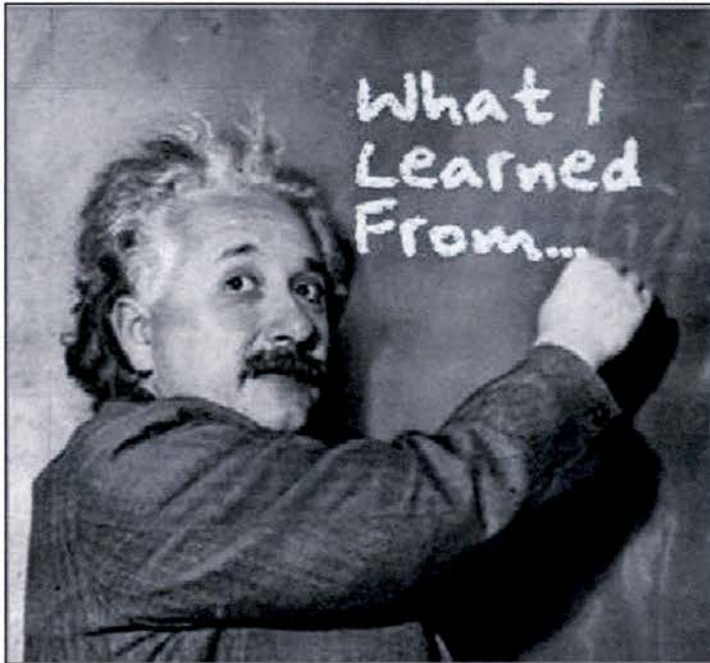
Slightly below baseline



Above baseline

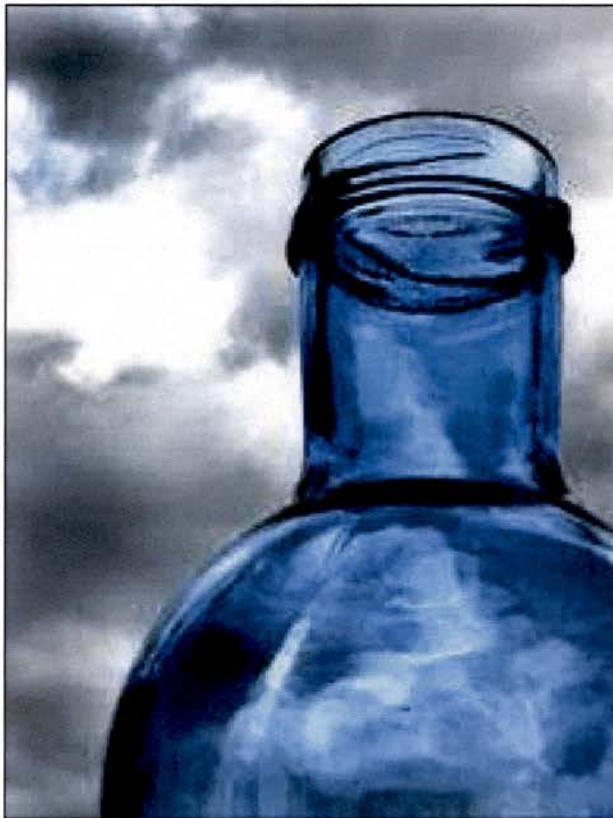


EAST METRO RAIL CAPACITY STUDY



1. Cottage Grove Auto Facility
 - Serving facility reduces network to single track
2. Hoffman Interlocking/East Metro Yards
 - Yard work dramatically limits trains in/out of Hoffman Interlocking
 - Turnout size limits speed; Lower speed reduces capacity of Hoffman Interlocking
 - Separation of yard and through movements will increase capacity
 - Crew changes use up track capacity
3. St. Croix Junction
 - At-grade crossovers cause congestion, limit capacity

Key Corridor Bottlenecks

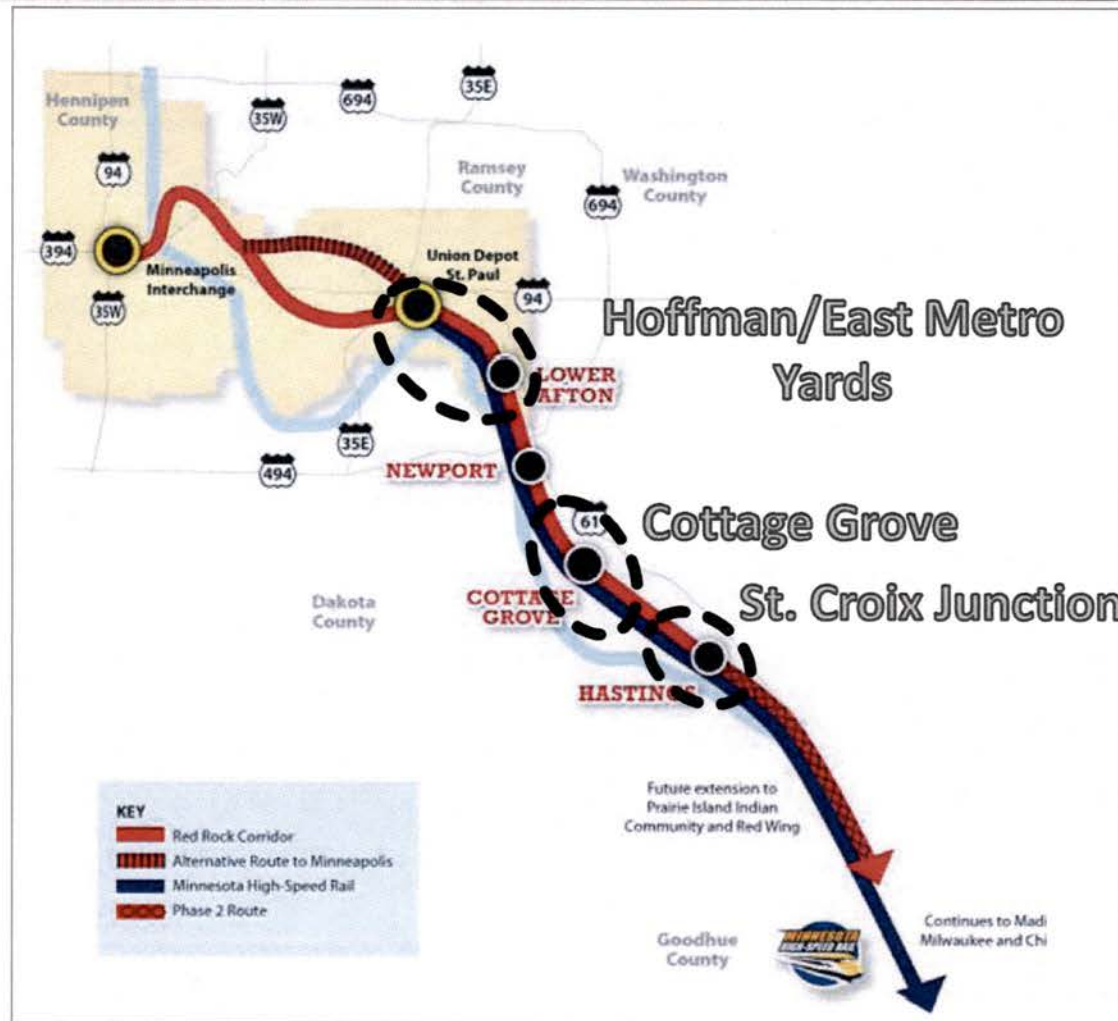


1. Hoffman Interlocking in St. Paul
2. St. Croix Junction north of Hastings

Regional and Statewide impact

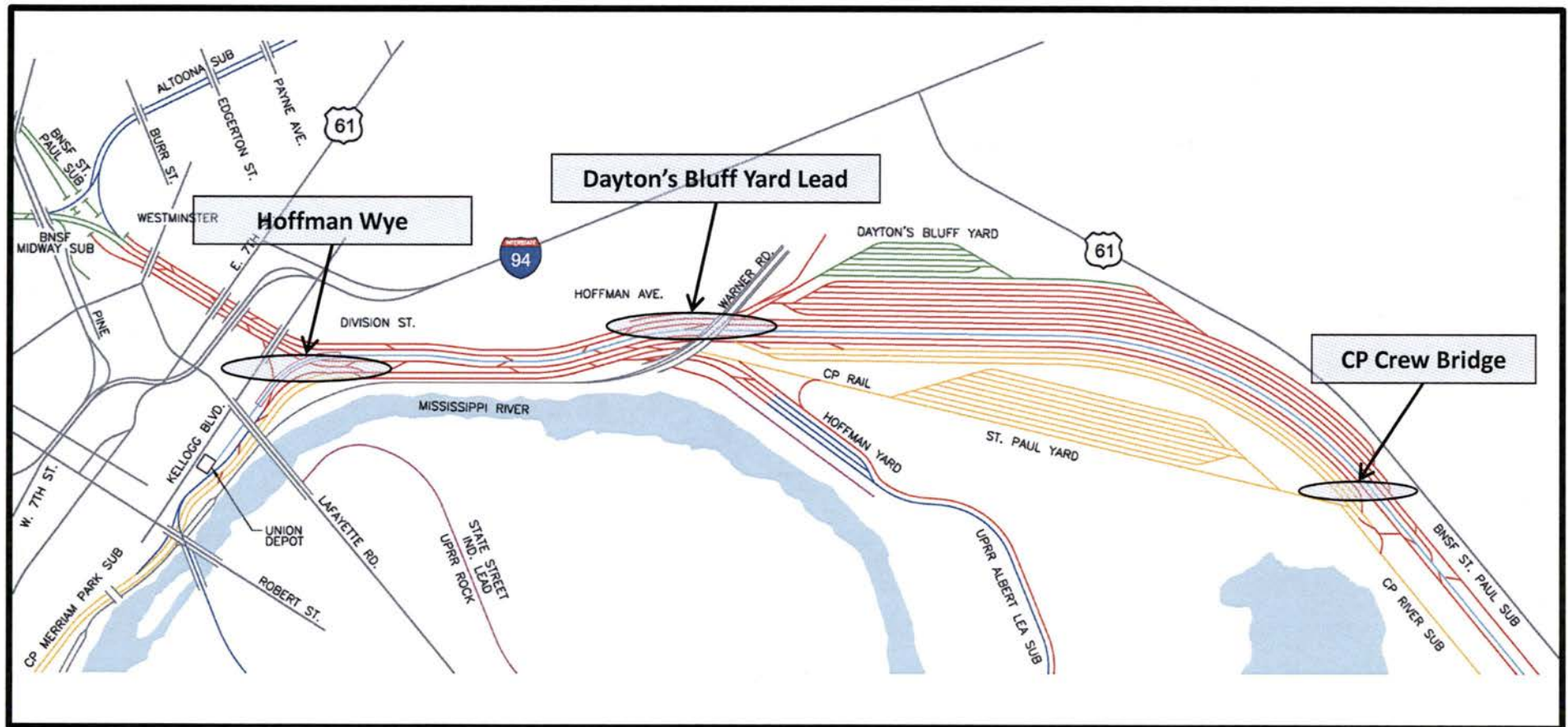
- Three Class 1 freight railroads (BNSF, CP, UP)
- Limit maximum number of trains to the Twin Cities and Minnesota
- If nothing is done:
 - Train diversion to other states
 - More trucks on the highways
 - Less competitive transportation system
 - Less economic development

EAST METRO RAIL CAPACITY STUDY



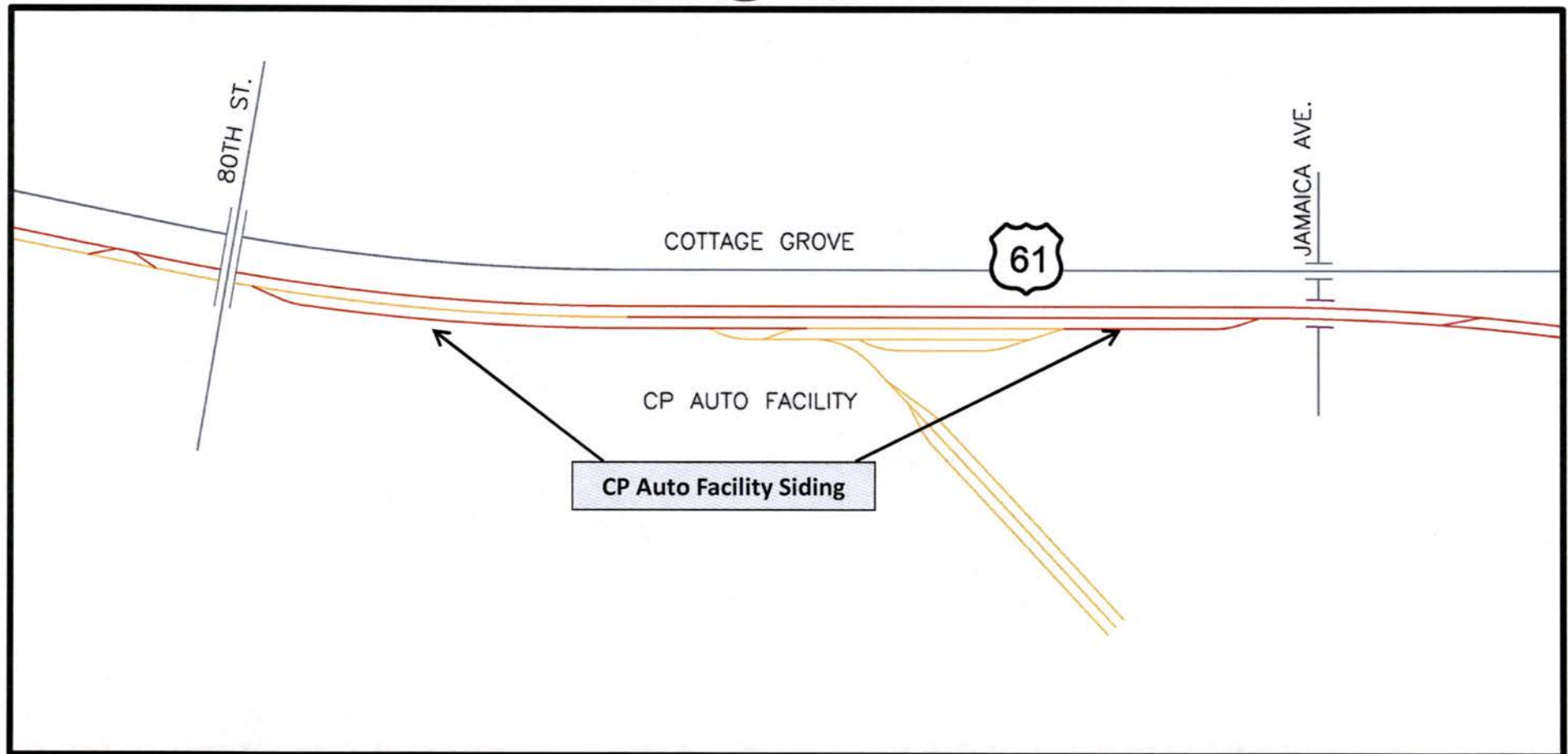
EAST METRO RAIL CAPACITY STUDY

Hoffman/East Metro Yards



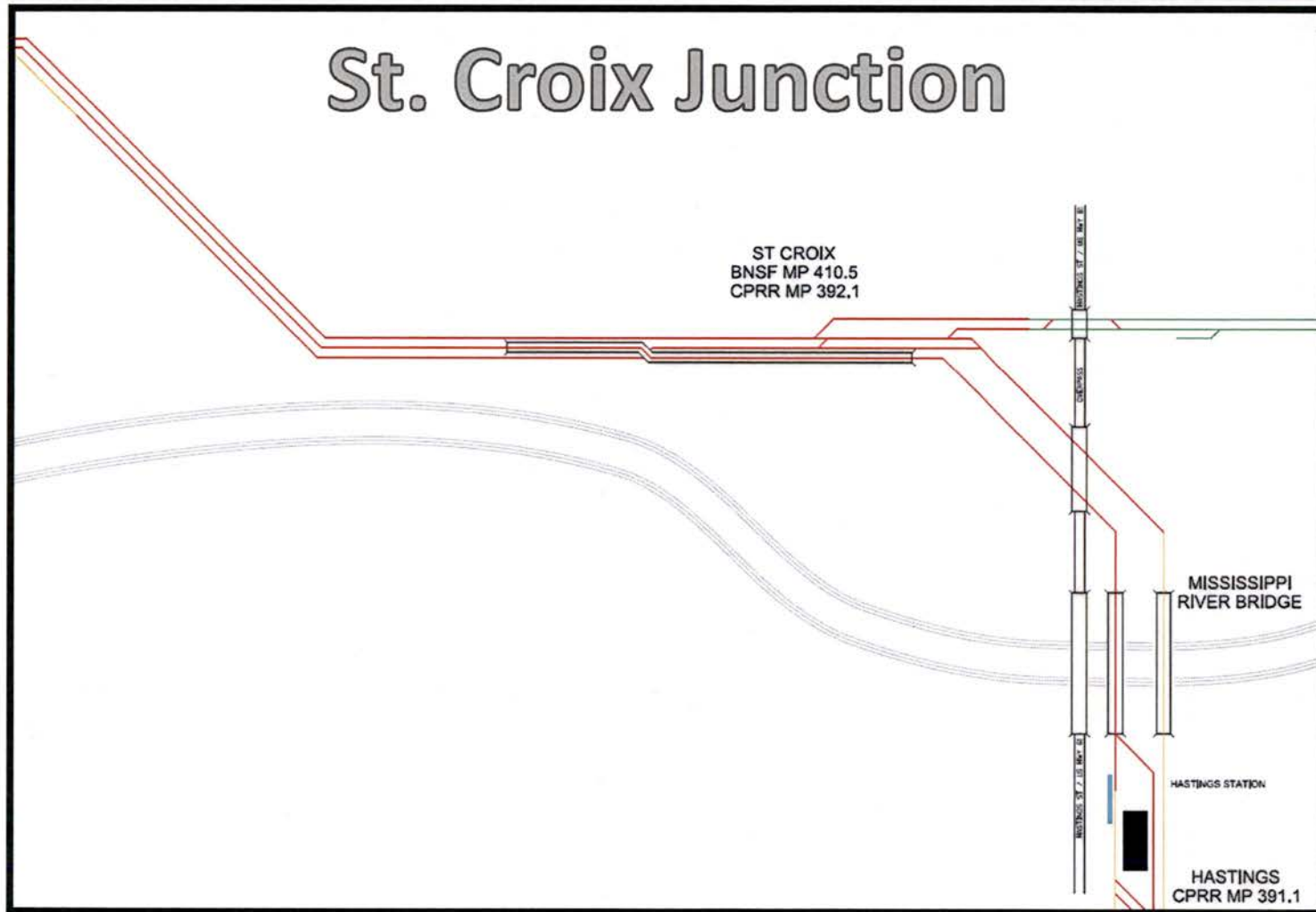
EAST METRO RAIL CAPACITY STUDY

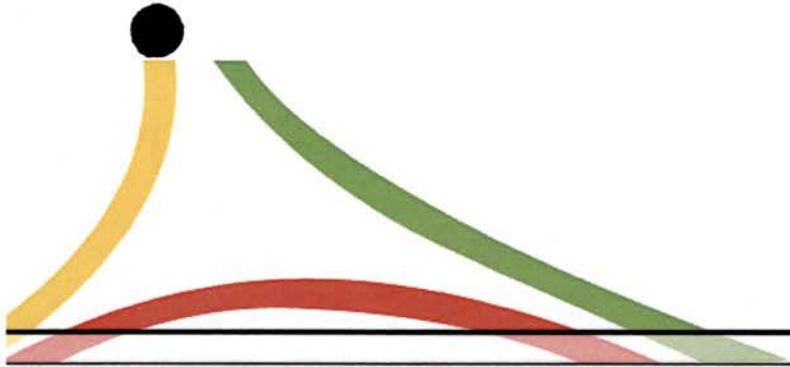
Cottage Grove



EAST METRO RAIL CAPACITY STUDY

St. Croix Junction





EAST METRO RAIL CAPACITY STUDY

Estimated Costs

Phase / Option	Estimated Cost (\$ in Millions)
Phase 1 (Option 1.5 Improvements)	\$226
Phase 2 (Option 3 Improvements)	\$118
Phase 3 (Option 5A Improvements)	\$483
Total	\$827

Conclusions

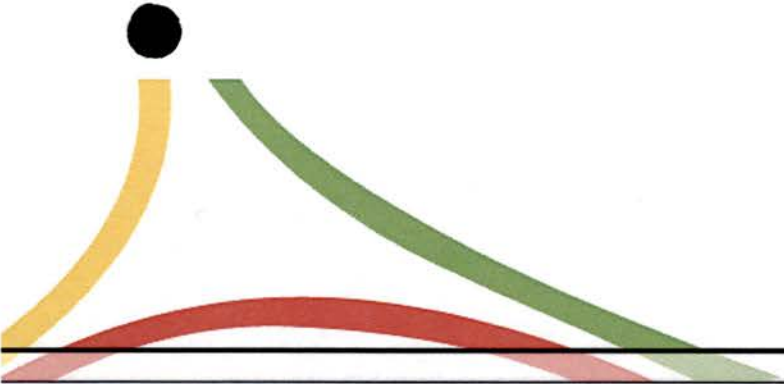
- Without changes, average train speed will begin to degrade before 36% freight growth volumes are reached, even without additional passenger traffic.
- With Phase 1 (Option 1.5) infrastructure changes, RRs can maintain current velocity as freight volume grows.
- With Phases 2 and 3 (Options 3 & 5A) infrastructure improvements, RRs can improve current speeds, even with increased freight volume and new passenger trains.

Conclusions

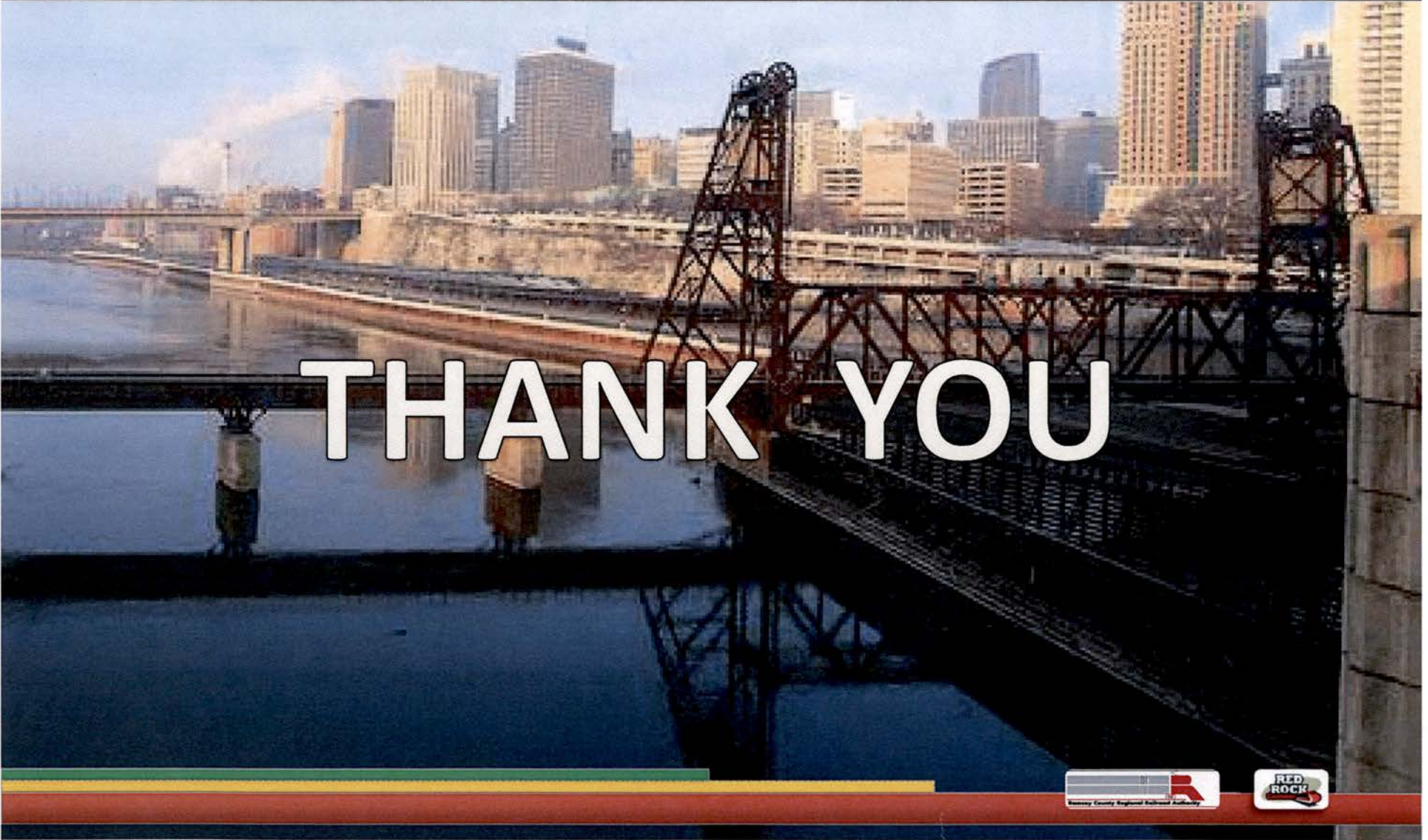
- Option 5A is the optimal layout for handling 36% freight growth and new passenger trains.
 - Minimizes train delays as volumes grow (better than Options 1.5 and 3);
 - Allows flexibility so regional rail system remains competitive;
 - Eases bottleneck through St. Croix, reducing risk that traffic be diverted elsewhere on national freight network;
 - Reduces risk of BNSF track flooding;
 - Provides maintenance access to tracks through St. Croix area, minimizing track down-time.

Next Steps

- Develop memorandum of understanding between railroad stakeholders and MnDOT/other public agencies
- Incorporate in local comprehensive plans
- Establish sequence of capital improvements...
Dependent on timing of passenger service implementation, freight growth
- Pursue funding opportunities



EAST METRO RAIL CAPACITY STUDY



THANK YOU

