

**JOINT POWERS AGREEMENT FOR CONSTRUCTION
OF METRO E LINE WITH CITY OF ST. PAUL, MINNESOTA**

THIS AGREEMENT is made and entered into by and between the Metropolitan Council, a public corporation and political subdivision of the State of Minnesota (“Council”), and the City of Saint Paul, a municipal corporation under the laws of the State of Minnesota (“City”), collectively, “Parties.”

BACKGROUND RECITALS

1. The Council plans to construct the METRO E Line, a 13-mile bus rapid transit (“BRT”) project extending through a 13-mile corridor from the western border of Saint Paul, through Minneapolis, and ending in Edina, during the 2024 and 2025 construction seasons (“Project”).

2. Pursuant to Minnesota statutory law and administrative rule, including Minnesota Statutes section 237.163 and Minnesota Rules 7819.0050, *et seq.*, the City has rights-of-way management authority and has adopted a right-of-way management ordinance, St. Paul City Code Ch. 116.

3. Pursuant to Minnesota Statutes section 471.59, subd. 10, the City agrees to exercise its rights-of-way management authority in furtherance of the Project, if requested by the Council.

4. The City and the Council agree to work cooperatively for the efficient construction of the Project.

NOW, THEREFORE, for mutual consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties agree as follows:

AGREEMENT

I.

Permits and Right of Entry

1. The Council will construct the Project in the City generally along University Avenue and Berry Street.

2. The City grants the Council and its contractor(s) the right to enter onto City property at no cost to the Council and its contractor(s), including any easements and rights-of-way the City currently owns or maintains, for construction of the Project. The Council or its contractor(s) will restore the properties to the approved plans and specifications. Any work not included in the approved plans and specifications for City-owned properties outside of the right-of-way will be subject to approval by the City. The Council or its contractor(s) will phase the work, and coordinate with the City to minimize interference with regular and typical use of the properties by the City.

3. The Council or its contractor(s) will apply for and obtain all applicable permits required by the City for construction of the Project. The City permits will be granted to the Council or its contractor(s) at no cost to the Council or its contractor(s).

4. The Council or its contractor(s) is responsible for obtaining all other applicable permits required for construction of the Project.

II. City Right-of-Way Management

The City will exercise its right-of-way management powers over all City rights-of-way necessary for the construction of the Project, including but not limited to those powers pertaining to the relocation of utilities within the City rights-of-way. In the event the Council's Project necessitates the City's use of its rights-of-way management powers, the Council will give notice to the City's authorized representative. The City will notify the Council in writing if the City changes its authorized contact person.

1. Within 14 calendar days of receiving the written notice the City will, following consultation with the Council and its contractor(s), exercise its rights-of-way management powers, including but not limited to relocation of utilities, that are necessary to enable the Council to complete construction of the Project.

2. The City is not responsible for ownership and maintenance of any elements, infrastructure, or appurtenances related to the Project. This includes, but is not limited to, utility connections, above-ground structures, and snow removal and ice control. Metro Transit will perform this work with their own or contracted forces or collaborate with adjacent private property owners for these services.

III. General Provisions

1. A Party will send all notices or demands under this Agreement either by (a) certified mail; (b) e-mail, as long as the recipient acknowledges receipt in writing; or (c) delivered in person to the other Party addressed to the following authorized representatives:

Adam Smith (or successor)
Manager, BRT Projects
Metro Transit
560 6th Avenue North
Minneapolis, MN 55411
adam.smith@metrotransit.org

Jimmy Shoemaker (or successor)
Transportation Planner
City of Saint Paul
25 West Fourth Street
800 City Hall Annex
Saint Paul, MN 55102
jimmy.shoemaker@ci.stpaul.mn.us

The City and the Council will notify the other Party if the City or the Council designates a different authorized representative.

2. To the extent authorized by law each Party is responsible only for its own acts and

omissions and the results of its acts and omissions. The City's and Council's liability is governed by the provisions of Minnesota Statutes, Chapter 466. For purposes of determining total liability of damages, the parties will be considered a single governmental unit pursuant to Minnesota Statutes section 471.59, subd. 1a(b) and the total liability of the Parties shall not exceed the limits on governmental liability for a single governmental unit as specified in Minnesota Statutes section 466.04.

3. All data collected, created, received, maintained, or disseminated for any purpose by the City and Council under this Agreement are governed by Minnesota Statutes, Chapter 13 ("Act"), and the Minnesota Rules implementing the Act.

4. This Agreement is the entire agreement between the Parties and supersedes all oral agreements and negotiations between the Parties relating to this Agreement.

5. The provisions of this Agreement are severable. If a court finds any part of this Agreement void, invalid, or unenforceable, it will not affect the validity and enforceability of the remainder of this Agreement. A waiver by a Party of any part of this Agreement is not a waiver of any other part of this Agreement or of a future breach of this Agreement.

6. Any modifications to this Agreement will be in writing as a formal amendment executed by the Parties' authorized signatories.

7. This Agreement is binding upon and for the benefit of the Parties and their successors and assigns. This Agreement is not intended to benefit any third party.

8. This Agreement terminates at the end of the Project construction or by the mutual agreement of the Parties.

9. The Council and the City are each authorized to enter into this Agreement pursuant to Council Business Item No. 2023-163 approved on August 23, 2023, and City Resolution No. _____, approved on _____.

10. This Agreement may be executed in any number of counterparts, each of which is to be deemed to be an original and the counterparts together constitute one and the same Agreement. A physical copy or electronic copy of this Agreement, including its signature pages, will be binding, and deemed to be an original.

11. This Agreement will be effective when both Parties' authorized signatories have signed it. The effective date of this Agreement will be the date this Agreement is signed by the last Party to sign it (as indicated by the date associated with that Party's signature).

Each Party is signing this Agreement on the date stated below that Party's signature.

METROPOLITAN COUNCIL

By: _____
Regional Administrator

Date: _____

CITY OF SAINT PAUL

A municipal corporation of the State of Minnesota

By: _____
Mayor

Date: _____

and _____
Director of Public Works

Date: _____

and _____
Director of Financial Services

Date: _____

and approved as to form:

Assistant City Attorney

Date: _____