

Mn/DOT Contract No. _____
Met Council Contract No. _____
ACRRA Contract No. 2011- _____
City of Ramsey Contract No. _____

DRAFT OF 4-12-11

**NORTHSTAR RAMSEY STATION PROJECT
MASTER COOPERATION, FUNDING AND DELEGATION AGREEMENT**

By and Between

~~State of Minnesota through its
Commissioner of Transportation (Mn/DOT)~~

Metropolitan Council

Anoka County Regional Railroad Authority

and

City of Ramsey

_____, 2011

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AGREEMENT

**NORTHSTAR RAMSEY STATION PROJECT
MASTER COOPERATION, FUNDING AND DELEGATION AGREEMENT**

This is a Master Cooperation, Funding and Delegation Agreement ("Master Cooperation Agreement") made and entered into by and between the State of Minnesota through its Commissioner of Transportation ("Mn/DOT"), the Metropolitan Council ("Met Council"), the Anoka County Regional Railroad Authority ("ACRRA"), and the City of Ramsey ("City"), collectively referred to as the "Parties."

BACKGROUND RECITALS

~~1. The Minnesota Department of Transportation is an agency of the State of Minnesota and under Minnesota Statutes, Section 174.82, was responsible for the planning, developing, and constructing Phase I of the Northstar Commuter Rail Project.~~

~~2.1. After the commencement of revenue service of the Northstar Commuter Rail Project in November 2009, the Met Council became responsible for planning, development, design, acquisition, construction, and equipping of any improvements to commuter rail facilities or service in that corridor pursuant to Minnesota Statutes, Section 473.4057, subd. 3.~~

~~3.2. ACRRA is a regional railroad authority established pursuant to Minnesota Statutes, Chapter 398A, to provide for the improvement of local passenger rail service.~~

~~4.3. The proposed commuter rail station will be located within the City of Ramsey and partially on property owned by the City.~~

~~5.4. The parties to this agreement have been involved in various activities regarding the development of the Northstar Ramsey Station Project ("Project"). The Project consists of the development of a commuter rail station on the Northstar Corridor which currently runs from Big Lake to downtown Minneapolis. The Project includes, without limitation:~~

- ~~a. the acquisition of the rights from the BNSF to allow the use of the railroad's right-of-way to add the Ramsey commuter rail station to the existing Northstar service, and~~
- ~~b. the construction of station and platform.~~

~~6.5. The Project will be financed through grants from the Federal Transit Administration ("FTA") and through financial contributions from the State of Minnesota, the Met Council, the ACRRA, the City and the Counties Transit Improvement Board ("CTIB") as described in this agreement.~~

~~7.6. Minnesota Statutes, Section 473.4057 sets forth certain requirements and responsibilities of the Met Council with respect to the planning, developing, designing, constructing, funding, operating and maintaining of commuter rail transit.~~

~~8.7. Minnesota Statutes, Section 473.4057 provides that the Met Council may enter into memoranda of understanding, joint powers agreements, or other agreements with public or private entities including, without limitation, political subdivisions, regional railroad authorities, metropolitan planning organizations, joint powers boards, the commissioner of transportation, or railroads, to carry out its responsibilities for commuter rail transit.~~

Met Council in charge of \$ and would be in lead of construction.

~~9. Minnesota Statutes, Section 473.399 directs Met Council and Mn/DOT to cooperate to ensure that certain light rail transit and commuter rail facilities are planned, designed, and implemented: (1) to move commuters and transit users into and out of, as well as within, the Twin Cities metropolitan area, and (2) to ensure that rail transit lines will interface with each other and with other transportation facilities so as to provide a unified and efficient multimodal transportation system.~~

~~10.8.~~ The Parties have passed resolutions or taken action authorizing their officials to execute this Master Cooperation Agreement between and among the Parties.

~~11.9.~~ The Met Council and the other parties to this agreement have authority pursuant to Minnesota Statutes, Section 473.4057 and other applicable law to enter into this Master Cooperation Agreement.

AGREEMENT

NOW, THEREFORE, for mutual valuable consideration, the sufficiency of which has been agreed to by the Parties, Met Council, Mn/DOT, ACRRA, and the City agree as follows:

ARTICLE I PURPOSE, GENERAL COOPERATION AND DELEGATION OF AUTHORITY

A. Purpose of Agreement

The purpose of this Master Cooperation Agreement is to:

1. Set forth the agreements made or to be made between and among the Parties on topics and issues with respect to the implementation, construction, ownership and operation of the Project pursuant to their authority under Minnesota Statutes, Chapters 174, 398A, 473; Minnesota Statutes, Section 471.59 and other applicable statutes;
2. Set forth the responsibilities agreed to be undertaken by each of the Parties with respect to the Project;
3. Provide for the requisite delegation of authority from the Met Council to each of the Parties, pursuant to Minnesota Statutes, Section 473.4057, as necessary for each Party to fulfill its responsibilities hereunder;
4. Set forth a timetable for the construction and implementation of the Project; and
5. Document the expenditures made or to be made by the Parties in support of the Project.

B. General Cooperation

The Parties to this Master Cooperation Agreement agree that their overall goal is the successful construction and implementation of the Project and to that end each Party agrees to cooperate with all other Parties and their consultants in order to ensure timely completion of construction and provision of service at the Ramsey commuter rail station.

C. Delegation of Authority

This Master Cooperation Agreement shall constitute an agreement by the Met Council, pursuant to Minnesota Statutes, Section 473.4057, that the Parties are authorized to carry out the services and responsibilities set forth in this Master Cooperation Agreement subject to the direction and control of the Met Council. The delegation herein shall be construed liberally to effectuate the Parties' intent and purpose, as authority for the performance of every act and thing authorized, and all powers granted shall be broadly interpreted to effectuate this intent and purpose.

**ARTICLE II
REGIONAL AND STATE PLANS
REGIONAL AND LOCAL APPROVALS**

The Parties agree that the following statements accurately reflect the planning and local approval status of the Project:

~~A. The basis for the proposed Project was developed through a series of regional and state transportation planning efforts will be documented in the following documents:~~

~~1. Transportation Improvement Plan (TIP), Metropolitan Council, 2011 - 2014.
(Question: Does Ramsey station need to be within the TIP?)~~

~~B. In compliance with Minnesota Statutes, Section 174.86, Mn/DOT submitted the Northstar Corridor Commuter Rail Advanced Corridor Plan ("ACP") to the governing bodies of all cities, counties, and towns along the corridor on August 4, 2000. The ACP was approved by all appropriate cities within 45 days of the public hearing. The Met Council approved the ACP on February 14, 2001, following a public hearing that it held on January 2, 2001. (Note: The Ramsey Station was not included in the ACP. How does the Met Council want to handle this issue?)~~

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**ARTICLE III
ACQUISITION OF LAND, EASEMENTS, RIGHT-OF-WAY AND OTHER PROPERTY INTERESTS FOR THE PROJECT**

The following sets forth the responsibilities of the indicated parties to this agreement for the acquisition of land, easements, right-of-way and other property rights needed for the Project, and the disposition of those rights.

A. City

1. City has acquired property and has constructed the Ramsey Town Center park-and-ride facility adjacent to the Ramsey commuter rail station site. By separate agreement, City will convey pursuant to a ground lease certain property rights to the Met Council to provide parking for commuter rail passengers.

2. In addition, the City owns and will convey by quitclaim deed property rights necessary for construction and operation of the Ramsey commuter rail platform. Such conveyance shall be at no cost to the transferee. [Note: 1. Brian Olson will check to see whether Right-of-way Acquisition Loan Fund (RALF) funds need to be repaid. 2. Paul Danielson needs to confirm what property transfers are needed for the project.]
3. City has no responsibility for acquisition of any other property interests for the Project.

B. Mn/DOT ??? (Note: Does Mn/DOT need to be a party to this agreement? Do we need Mn/DOT to issue the threat of condemnation?)

1. ~~Mn/DOT intends to acquire from BNSF the commuter rail easements necessary for implementation of the Project through execution of the Purchase and Sale Agreement with BNSF as set forth in Exhibit A to this Master Cooperation Agreement.~~
2. ~~Mn/DOT has already acquired and now owns (?) certain property interests necessary for the operation of commuter rail service in the Northstar Corridor.~~

C. Met Council

1. Mn/DOT Met Council intends to acquire from BNSF the commuter rail easements necessary for implementation of the Project through execution of the Purchase and Sale Agreement with BNSF as set forth in Exhibit A to this Master Cooperation Agreement.

2. ACRRA, in consultation with the Met Council, will negotiate the acquisition of certain property interests (such as platform leases and overpass/underpass agreements) necessary for construction and operation of the Project. As necessary, the Met Council will execute such agreements subject to the following:

1. Met Council acceptance of the terms and conditions of such agreements; and
2. obtaining sufficient funding for any costs incurred or to be incurred by the Met Council:
 - in acquiring such property interests, and
 - for the construction of the Project.

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**ARTICLE IV
FINANCING OF THE PROJECT**

This article sets forth the projected sources and associated contributions necessary for financing the Project.

A. Federal Grant Funding

1. The Parties anticipate that approximately _____% \$3 million of the Project will be funded through a grant from the FTA.
2. Met Council will act as the Grantee of all federal funds for the Project. As Grantee, Met Council will conduct negotiations with FTA and will submit all components of any grant applications to the FTA.

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3. The FTA contribution to the Project will be granted to Met Council which will use or distribute the funds for Project costs, including but not limited to:
 - right-of-way acquisition and expenses,
 - acquisition of the BNSF commuter rail easement,
 - payment to design support, construction, and project management contractors,
 - used for staffing costs directly incurred for this Project, and
 - other eligible Project expenses.

B. State of Minnesota Funding

1. The Parties anticipate that approximately —%-\$4 million of the Project will be funded through a State bond funds.
2. The State contribution to the Project will be used for one or more of the following purposes:
 - right-of-way acquisition and expenses,
 - acquisition of the BNSF commuter rail easement,
 - payment to design support, construction, and project management contractors,
 - used for staffing costs directly incurred for this Project, and
 - other eligible Project expenses.
 - ~~applied to right-of-way acquisition,~~
 - ~~paid to the Parties for Project expenses, and~~
 - ~~used for staffing costs directly incurred for this Project. (?)~~

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3. The Parties recognize that the availability of FTA and State contributions to the Project will not match the projected expenditure schedule for the Project. Accordingly, it will be the responsibility of _____ to develop a Master Cash Flow for construction of the Project and to provide the cash flow financing for the Project, except as otherwise provided for in this Master Cooperation Agreement or other Project funding agreements. This Master Cash Flow will show the annual amount of funds needed to support the Project, the mix of funds for the various parts of the Project, and the timing for these funds.

C. ACRRRA and City Funding

1. ACRRRA
 - a. Direct Contribution. ACRRRA will contribute up to \$3.1 million (to be negotiated) for completion of the Project for one or more of the following purposes:

 - b. CTIB Grant. ACRRRA has applied for and was awarded a \$1 million grant for 2011 contingent upon commitment of all funding for the Project. ACRRRA intends to apply for additional CTIB grant in the amount of \$1.816 million for 2012. Parties hereby agree to comply with all applicable terms and conditions of the CTIB grant agreements for the Project.
2. City

The City will contribute up to \$3.1 million (to be negotiated) for completion of the Project for one or more of the following purposes:

3. D. Met Council Funding

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The Met Council will contribute \$1.3 million for completion of the Project.

**ARTICLE V
FINANCIAL MANAGEMENT OF THE PROJECT**

A. General. _____The Met Council will be responsible for maintaining the official and complete accounting records for the Project. It will provide to the other Parties the structure for coding and tracking expenditures. This coding will be used for costs incurred for the Project regardless of source of funds or repayment status.

B. Grant Management. As Grantee of FTA funds, _____the Met Council has primary responsibility for compliance with federal requirements. Accordingly, the Met Council_____ will oversee and coordinate all activities relating to budgets, procurement and project controls. The Met Council_____ will provide assistance to the other Parties so that the Project will comply with said federal requirements.

C. Funding Agreements. _____ has entered into or will enter into separate Funding Agreements ("Funding Agreements") with other parties to this agreement or other entities to provide a method of transfer of Project funds to those parties for acquisition of property or equipment, or for other Project services.

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D. Project Budget.

The budget for the Project ("Project Budget") is attached hereto and incorporated herein as Exhibit B.

**ARTICLE VI
CONSTRUCTION AND IMPLEMENTATION OF THE PROJECT**

Met Council will coordinate construction and implementation of the Project with individual Project activities being carried out by the various parties to this agreement. The project management team organization chart and key staff is attached hereto and made a part hereof as Exhibit C. The following describes the responsibilities of the Parties with respect to construction and implementation of the Project.

A. Met Council

1. Met Council will obtain the local approvals and permits it deems necessary for the Project. Where compliance with building, mechanical, electrical, elevator, fire or other construction code is either required by the laws of the State of Minnesota or is determined to be advisable by Met Council, and the enforcement has been delegated by the Met Council to another Party, Met Council and/or its contractors will prepare permit applications, and pay, for any and all permits normally required by the Party for work regulated by the code(s).

2. _____ has updated the environmental documentation required by state and federal law and has submitted the documentation to the FTA. _____ will be responsible for any modifications or updates to the environmental documentation that may become necessary as the Project proceeds.
3. The Project will be constructed in accordance with the schedule attached hereto and incorporated herein as Exhibit D.
4. Met Council will construct, within the Project limits, any and all physical structures, elements and components of the system, which include, but are not limited to, communications systems, overhead contact system, signals, lighting, sidewalks, passenger stations, structures, certain public utilities, and landscaping.
5. Contracts awarded by the Met Council for the construction of the Project shall include all federal, state and CTIB required contract clauses and requirements, including but not limited to the applicable FTA third party contracting requirements of FTA Circular No. 4220.1E.
6. The Met Council is responsible for Project management during construction and will work through the project management team to manage all activities during the construction phase of the Project.

B. ~~Mn/DOT~~

1. ?

ARTICLE VII GENERAL PROVISIONS

- A. Conflict Resolution – If a dispute should arise between or among the Parties to this Master Cooperation Agreement with respect to this Master Cooperation Agreement or any of its provisions, the Parties involved agree to attempt to settle such dispute through the use of a mediator mutually acceptable to the Parties involved in the dispute prior to initiation of any legal action with respect to this Master Cooperation Agreement, any of its provisions and/or its enforcement.
- B. Liability – Each party shall be responsible for its own acts and omissions, the acts and omissions of its employees and the results thereof to the extent authorized by law. The Parties shall not be responsible for the acts of others and results thereof. ~~The liability of the Mn/DOT is governed by Minnesota Statutes, Section 3.736, and other applicable law.~~ The liability of all other the Parties is governed by the Municipal Tort Claims Act in Minnesota Statutes, Chapter 466, and other applicable law. The terms of this Master Cooperation Agreement are not to be construed as, nor operate as, waivers of a Party's statutory or common law immunities or limitations on liability, including, but not limited to, Minnesota Statutes, Section 3.736, Minnesota Statutes, Chapter 466, Minnesota Statutes, Section 471.59, subd. 1a., or any other applicable law or regulation providing limitations, defenses or immunities to the Parties.

- C. Insurance – The various Property Transfer Agreements property transfer agreements and Construction Agreements contracts entered into pursuant to this Master Cooperation Agreement will contain terms and conditions for provision of adequate insurance coverage for the Parties during construction and operation of the Project. Contracts shall provide that the contractor must defend, indemnify, and save harmless the Parties from all claims, suits, demands, damages, judgments, costs, interest, and expenses arising out of or by reason of the performance of the contracted work, caused in whole or in part by any negligent act or omission of the contractor, including negligent acts or omissions of its employees, subcontractors, or anyone for whose acts any of them may be liable. Contracts shall further provide that the contractor must provide and maintain insurance in amounts and types of coverage appropriate to the contracted work and naming the Parties as additional insureds, and provide to each of the Parties prior to commencement of the contracted work a certificate of insurance evidencing such insurance coverage.
- D. Employees – All employees of each Party and all persons engaged by each Party in the performance of any work or services required or provided for herein to be performed by each Party shall not be considered employees of any other Party and that any and all claims that may or might arise under the Worker's Compensation Act or the Unemployment Compensation Act of the state of Minnesota on behalf of said employees while so engaged, and any and all claims made by any third parties as a consequence of any act or omission on the part of said employees while so engaged, on any of the work or services provided to be rendered herein, shall in no way be the obligation or responsibility of any other Party.
- E. Applicable Provisions of Law – The Parties agree to comply with applicable provisions of Minnesota state law, federal law and regulations and of any applicable local ordinances which shall be considered a part of this Master Cooperation Agreement as though fully set forth herein.
- F. Amendments – Any alterations, variations, modifications, or waivers of provisions of this Master Cooperation Agreement shall only be valid when they have been reduced to writing as an amendment to this Master Cooperation Agreement signed by the parties Parties hereto.
- G. Severability – The provisions of this Master Cooperation Agreement shall be deemed severable. If any part of this Master Cooperation Agreement is rendered void, invalid, or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Master Cooperation Agreement unless the parts which are void, invalid or otherwise unenforceable shall substantially impair the value of the entire Master Cooperation Agreement with respect to the Parties. One or more waivers by a Party of any provision, term, condition or covenant shall not be construed by the other Parties as a waiver of a subsequent breach of the same by other Parties.
- H. Governing Law – This Master Cooperation Agreement is entered into in and under the laws of the state of Minnesota and shall be interpreted in accordance therewith. If state or federal laws change during the term of this Master Cooperation Agreement and such change conflicts with or alters a Party's material obligation under any of the provisions of this Master

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Cooperation Agreement, the Parties agree to amend this Master Cooperation Agreement to conform with said laws.

I. Notices – Any notice or demand, which may or must be given or made by a Party hereto, under the terms of this Master Cooperation Agreement or any statute or ordinance, shall be in writing and shall be sent certified mail or delivered in person to the other Parties as follows:

Mn/DOT:
Metro District Transit Office Director
Minnesota Department of Transportation
Northstar Project Office
155 5th Avenue South, Suite 755
I, _____ – Minneapolis, MN 55401

Met Council:
Regional Administrator
Metropolitan Council
390 North Robert Street
St. Paul, Minnesota 55101

ACRRA:
Executive Director
Anoka County Regional Railroad Authority
Anoka County Government Center
2100 3rd Avenue
Anoka, Minnesota 55303

City of Ramsey:

City Administrator
7550 Sunwood Dr NW
Ramsey MN 55303

J. Contract Administration – In order to coordinate the activities of the Parties so as to accomplish the purposes of this Master Cooperation Agreement, the following individuals, or their designees or successors shall manage this Master Cooperation Agreement on behalf of the Parties.

Mn/DOT:
Metro District Transit Office Director
Minnesota Department of Transportation
Northstar Project Office
155 5th Avenue South, Suite 755
Minneapolis, MN 55401

Met Council:
General Manager
Metro Transit
560 Sixth Avenue North
Minneapolis, Minnesota 55411-4398

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ACRRA:

Executive Director
Anoka County Regional Railroad Authority
Anoka County Government Center
2100 3rd Avenue
Anoka, Minnesota 55303

City of Ramsey:

City Administrator
7550 Sunwood Dr NW
Ramsey MN 55303

- K. Availability of Records – The Parties agree that each Party hereto, the Legislative Auditor, the State Auditor, or any of their duly authorized representatives at any time during normal business hours, and as often as they reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, or records, which are pertinent to the accounting practices and procedures of any other party hereto and involve transactions relating to this Master Cooperation Agreement for a minimum of six years from the expiration of this Master Cooperation Agreement.
- L. Data Privacy – The Parties agree to abide by all applicable state and federal laws and regulations and confidential information concerning individuals and/or data including, but not limited to, information made non-public by such laws or regulations.
- M. Effective Date – This Master Cooperation Agreement shall take effect upon execution by all of the Parties hereto and by proper state officials and shall remain in effect until the FFGA is closed out by the FTA.
- N. Termination – The Parties to this Agreement may mutually agree to cancel this Agreement prior to its termination pursuant to Paragraph M of this Article X.
- O. Counterparts – This Master Cooperation Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which, when taken together, shall constitute but one and the same instrument.

IN TESTIMONY WHEREOF, the Parties hereto have caused this Master Cooperation Agreement to be executed on their behalf by their respective duly authorized representatives.

~~THIS NORTHSTAR CORRIDOR PROJECT MASTER COOPERATION AND DELEGATION AGREEMENT was entered into and executed by the undersigned on the day(s) and date(s) shown in the following signature block:~~

~~RECOMMENDED FOR APPROVAL~~

~~By: _____
Title: Metro District Transit Office Director~~

~~Date: _____~~

~~MINNESOTA DEPARTMENT OF TRANSPORTATION~~

~~By: _____
Title: Commissioner of Transportation~~

~~Date: _____~~

~~MINNESOTA DEPARTMENT OF ADMINISTRATION~~

~~By: _____
Title: Commissioner of Administration~~

~~Date: _____~~

THIS NORTHSTAR RAMSEY STATION CORRIDOR PROJECT MASTER COOPERATION AND DELEGATION AGREEMENT was entered into and executed by the undersigned on the day(s) and date(s) shown in the following signature block:

METROPOLITAN COUNCIL

By: _____

Regional Administrator

Date: _____

APPROVED AS TO FORM:

By: _____

Office of General Counsel

Date: _____

THIS NORTHSTAR RAMSEY STATION CORRIDOR PROJECT MASTER COOPERATION AND DELEGATION AGREEMENT was entered into and executed by the undersigned on the day(s) and date(s) shown in the following signature block:

ANOKA COUNTY REGIONAL RAILROAD AUTHORITY

By: _____
Matt Look, Chair
Anoka County Regional Railroad Authority

Dated: _____

ATTEST:

Tim Yantos
ACRRA Executive Director

Dated: _____

Approved as to Form and Execution:

By: _____
Assistant Anoka County Attorney

Dated: _____

| THIS NORTHSTAR RAMSEY STATION CORRIDOR-PROJECT MASTER COOPERATION AND DELEGATION AGREEMENT was entered into and executed by the undersigned on the day(s) and date(s) shown in the following signature block:

| ~~SHERBURNE COUNTY REGIONAL RAILROAD AUTHORITY~~ City of Ramsey

By: _____

Chair Bob Ramsey

~~Sherburne County Regional Railroad Authority~~ Mayor

Dated: _____

ATTEST:

SCRRRA Executive Director

Dated: _____

Approved as to Form and Execution:

By: _____

Assistant Sherburne County City Attorney

Dated: _____

LIST OF EXHIBITS

Description