

**Amended and Restated**  
**Joint Powers Agreement Establishing the Gold Line Joint Powers Board**

**Adopted July 23, 2019**

**Amended June 1, 2021**

**THIS AGREEMENT** (“Agreement”) is entered into by and between the Ramsey County Regional Railroad Authority (“RCRRA”), the county of Ramsey (“Ramsey”), the Washington County Regional Railroad Authority (“WCRRA”), and the county of Washington, collectively the “Parties,” pursuant to Minnesota Statutes Sections 471.59 and 398A.04.

**RECITALS**

**WHEREAS**, the Parties are committed to safe and efficient transit service to meet the existing and long-term mobility and accessibility needs of residents and businesses in the eastern portion of the Twin Cities Metropolitan Region; and

**WHEREAS**, the proposed METRO Gold Line Bus Rapid Transit (BRT) Project will be located in Ramsey and Washington Counties and extend approximately ten miles, running between Saint Paul, Maplewood, Landfall, Oakdale and Woodbury; and

**WHEREAS**, BRT in a dedicated guideway was selected by the counties and cities in the corridor as the locally preferred alternative; and

**WHEREAS**, the Metropolitan Council (Council), jointly with the Parties, is proposing to design, construct, and operate the METRO Gold Line BRT Project (Project); and

**WHEREAS**, the Council, as federal grantee, is pursuing federal funding pursuant to the Capital Investment Grants Program and anticipates a 45% federal share of funding for the Project; and

**WHEREAS**, Parties intend to commit up to 55% share of Project funding, subject to certain conditions; and

**WHEREAS**, the purpose of this Agreement is to create a joint powers board to receive and distribute local funding for engineering, right of way acquisition and construction pursuant to grant agreements, to provide financial oversight of the use of such funds, and to provide a mechanism for coordination among the Parties.

**NOW, THEREFORE**, in consideration of the mutual promises, agreements, benefits and obligations in this Agreement, the Parties agree as follows:

### **ARTICLE I. PURPOSE**

The purpose of this Agreement is to create a structure for the joint funding and financial oversight of the “Gold Line Bus Rapid Transit Project (“Project”). Specifically, this Agreement establishes a joint powers board to: 1. receive funding from the Parties and distribute such funding for the engineering and construction phases of the Project; 2. provide financial oversight of the expenditure of such funds; 3. provide a mechanism to jointly address issues arising in the development, design and construction of the Project, and 4. coordinate outreach and intergovernmental activities.

### **ARTICLE II. DEFINITIONS**

The following definitions apply in this Agreement:

1. Agreement shall mean this Joint Powers Agreement as it now exists and as it may hereafter be amended.
2. Board shall mean the Gold Line Joint Powers Board established by this Agreement.
3. Bylaws shall mean the bylaws adopted by the Board as provided in Article V.2.c.
4. Corridor shall mean the bus rapid transit corridor that extends approximately ten miles, running between Saint Paul, Maplewood, Landfall, Oakdale and Woodbury.

5. County or Counties shall mean Ramsey and/or Washington Counties as the context may require.
6. FTA shall mean the Federal Transit Administration.
7. Fiscal Agent shall mean the County providing financial management services as provided in Article VII.4.a.
8. Full Funding Grant Agreement (FFGA) shall mean the agreement used to provide federal financial assistance for the Capital Investment Grants Program under Title 49 United States Code Section 5309, et seq.
9. Joint Development shall mean activities consistent with this definition from the FTA Guidance Circular 7050.1A, dated December 29, 2016, or as that term may subsequently be defined by the FTA, and shall mean a public transportation project that integrally relates to, and often co-locates with commercial, residential, mixed use, or other non-transit development. For purposes of this agreement, joint development shall not include public development that is integrally related to and co-located with the project.
10. Member shall mean a commissioner appointed by the governing board of each of the Parties to serve on the Board.
11. Project shall mean the Gold Line Bus Rapid Transit Project running along the Corridor and connecting to the Metro Green Line at the Union Depot in St. Paul.
12. Regional Railroad Authorities or RRA's shall mean the Ramsey and/or Washington Regional Railroad Authority as the context may require.

### **ARTICLE III. TERM**

This Agreement shall be effective and the joint powers board established herein may commence exercising the powers authorized in this Agreement on the day that the Agreement has been approved by resolution by action of the governing boards of each Party and duly executed by each of the Parties. The

Agreement shall remain in full force and effect until terminated by the Parties pursuant to Article IX of the Agreement.

#### **ARTICLE IV. JOINT POWERS BOARD**

##### **1. Establishment and Composition**

- a. The Parties hereby establish a joint powers board to be known as the Gold Line Joint Powers Board to jointly exercise such powers and authorities as are necessary to achieve its purposes and fulfill its duties as provided for herein. The Board shall be a public entity separate from the Parties and shall not be deemed to be an agent or partner of the Parties to this Agreement or the Metropolitan Council, nor shall the Parties be liable for the actions of the Board or the Metropolitan Council.
- b. The Board shall consist of one commissioner appointed by resolution of the governing board of each of the Parties. Each Party shall also appoint one or more alternates. Each Member and alternate must be a member of the governing body which appoints him or her, and must remain so during his or her term on the Board.

##### **2. Voting**

- a. Each Member shall be entitled to one vote. If a Member is absent from a meeting, the Member's alternate may cast his or her vote.
- b. Except for budget items, all actions of the Board require a simple majority of the Board.
- c. All actions involving the adoption of the budget shall require a unanimous vote of the Members.
- d. A quorum of the Board shall be three Members.

#### **ARTICLE V. POWERS OF THE BOARD**

##### **1. General Powers**

The Board is hereby authorized to exercise the authority and powers as is necessary and convenient to carry out its purposes and fulfill its duties under this Agreement without individual approval of the Parties unless otherwise specified in this Agreement.

##### **2. Specific Powers**

- a. The Board shall adopt an annual budget, together with a statement of the amount of funding required of each Party, in accordance with the provisions set forth in Article VII.
- b. The Board may enter into any contract necessary or proper for the exercise of its powers or the fulfillment of its duties and enforce such contracts to the extent available in equity or at law. The Board may approve any contract relating to its administration up to the amount approved in the annual administrative budget. All written instruments made by the Board shall be executed in its name by the Chair of the Board and by the clerk of the Board. In the event either is unavailable, written instruments shall be signed by such other officers as designated in the bylaws.
- c. The Board shall have the power to adopt such bylaws that it may deem necessary or desirable for the conduct of its business. Such bylaws shall be consistent with this Agreement and any applicable law or regulation.
- d. The Board may apply for and accept gifts, grants or loans of money, other property or assistance from the United States Government, the State of Minnesota, or any political subdivision of the State of Minnesota, or any person, association or agency for any of its purposes; enter into any agreement in connection therewith; and hold, use, and dispose of such money, other property or assistance in accordance with the terms of the gift, grant or loan relating thereto.
- e. The Board may acquire, lease, hold, use and dispose of property, both real and personal, including a transfer from the State of Minnesota, a county or other political subdivision, to accomplish the purposes of this Agreement and upon termination of this Agreement, shall make distribution of such property as is provided for in this Agreement.
- f. The Board may incur debts, liabilities, or obligations in accordance with the provisions of this Agreement, but the Board shall not have the authority to issue bonds.
- g. The Board may sue and be sued in its own name, purchase insurance as is deemed advisable, and may otherwise take action to enforce its rights in equity or in law.

## **ARTICLE VI. OFFICERS AND STRUCTURE OF THE BOARD**

### **1. Terms**

- a. The Board of Commissioners of each county and Regional Railroad Authority shall appoint one Member and one or more alternates, by resolution, to serve on the Board for a term of one year. Members and alternates must be members of the appointing Board of Commissioners. Initial appointments must be made by resolution upon execution of this Agreements. Thereafter, appointments must be made by January 15 of each year by resolution of the appointing board.
- b. In the event that a Member or alternate has not been appointed by January 15 in any year, the incumbent Member shall serve until a successor has been appointed by resolution of the appointing board, unless the incumbent Member is no longer a board member of the Party in which case the incumbent alternate shall serve for that Party until a permanent Member is appointed by resolution of the appointing board. Removal of any Member or alternate during the term for which the Member has been appointed may be done at any time but shall be done only by resolution of the appointing board.

### **2. Chair and Vice Chair**

- a. The Board shall elect a chair ("Chair") and a vice chair ("Vice Chair") from its membership at its first regular meeting. The Chair and Vice Chair shall be elected by the Board from its membership for a one-year term. The Chair and Vice Chair may not be from the same County or County RRA. The Chair and Vice Chair shall rotate between the Counties on an annual basis.
- b. The Chair shall preside at all meetings of the Board and shall perform other duties and functions as may be determined by the Board. The Vice Chair shall preside over and act for the Board during the absence of the Chair. The Board may elect other officers in accordance with its bylaws.

### **3. Vacancies**

- a. If an appointment of any Member or alternate is vacated before the end of the term, the vacancy shall be filled by appointment by the appropriate Board of Commissioners. A vacancy shall be

deemed to have occurred when any of the conditions specified in Minn. Stat. Section 351.02 exist or if a Member fails to qualify or act as an elected official.

4. Meetings

- a. The Board shall meet at regular intervals at such times and places as the Board shall establish in its bylaws. Special meetings may be held on reasonable notice of the Chair upon terms and conditions that conform to the Minnesota Open Meeting Law, Minn. Stat. Chapter 13D.

**ARTICLE VII. FUNDING**

1. Annual Budget

For the calendar year next following the calendar year in which the Effective Date occurs and all subsequent years, the Board shall establish and approve a budget. The Board shall establish its first budget within sixty (60) days of the commencement of the Board. All subsequent Annual Budgets shall be adopted by August 15 and will include funding for the Board's administrative costs, including any contracts entered into by the Board, funding for FFGA eligible expenses and funding non-FFGA eligible expenses as approved pursuant to the grant agreement.

2. Budget Approval

- a. Adoption of the budget requires a unanimous vote of the Members.
- b. Member contributions to the Annual Budget shall be subject to the approval of each Party providing funding.
- c. The Board's fiscal year shall be the calendar year.

3. Contributions

- a. Financial contributions to the Annual Budget shall be allocated as follows:
  - i. 50% of the funding shall be provided by Ramsey County and/or the Ramsey County Regional Railroad Authority.
  - ii. 50% of the funding shall be provided by Washington County and/or the Washington County Regional Railroad Authority.
- b. The Parties may agree to modify the allocation of contributions for non-FFGA expenses by resolution of the governing board of each Party.

- c. Contributions shall be paid by each contributing Party by January 15 of each year. The initial contribution shall be paid within 60 days of the adoption of the initial budget pursuant to Paragraph 1, above.
- 4. Budgeting, Accounting, Fiscal Agent, and Other Services.
  - a. The Board may contract with one Party to provide contract management, legal review, and budgeting and accounting services necessary or convenient for the Board and otherwise act as the Board's fiscal agent. Such services shall include, but not be limited to, management of all funds, including contributions of the Parties and grant monies, payment for contracted services, and relevant bookkeeping and record keeping. The contracting and purchasing requirements of the Party so selected shall apply to the transactions of the Board. Such Party shall identify a staff person to work as liaison with the Board.
  - b. All funds shall be accounted for according to generally accepted accounting principles. A report on all receipts and disbursements shall be forwarded to the Board on an annual basis. The Members have, at any time, the authority to request and receive reports pertaining to any and all budgeting and accounting services. All interest earned from established Board funds shall be credited back to that same fund.

## **ARTICLE VIII. GRANT MANAGEMENT**

- 1. Annual Grant
  - a. The Board may enter into grants for the purposes of completing the Engineering Phase and Construction Phase of the FTA's Capital Investment Grant process and related activities. Such grants shall be consistent with funding commitments made by the Members.
  - b. The Board may establish conditions on the use of funds and shall include such conditions in the grant agreement. Conditions shall include, but not be limited to:
    - i. Grant funds may only be used for Capital Investment Grants Program federally-eligible activities, but shall not include Joint Development activities as defined by the Federal Transit Administration. Any exception to this condition is



subject to the consent of the Board, pursuant to the process set forth in the grant agreement.

- ii. No funds may be used for advanced construction activities pursuant to a Letter of No Prejudice from the FTA. Any waiver of this condition will require approval of each Party.
- iii. Grant funds may be used for right of way acquisition and utility relocation as authorized by FTA as pre-award authority activities under the conditions:
  - 1. The Board must provide prior approval of a request submitted to the Board by the Council.
  - 2. The Council must demonstrate that the need for the pre-award expenditure is critical and that the impact of failing to proceed will have a significant impact on the project schedule and budget.
- iv. The Council will take no action that will impair the tax-exempt or tax favored status of bonds issued by one or more Parties for the funding of the Project.
- v. The Board shall serve as the change control board and shall establish a process and procedures for the Board's oversight of the use of contingency funds. Such procedures may provide that the Metropolitan Council Chair, and/or a Council member designated by the Chair, may sit as a voting member(s) of the change control board. All contingency funds will be managed in accordance with such process.
- vi. Any other condition deemed necessary by the Board and incorporated into the Grant Agreement to protect the Members' investments in the Project.

## **ARTICLE IX. WITHDRAWAL AND TERMINATION**

### **1. Withdrawal**

- a. Any Party may withdraw from this Agreement upon 90 days prior written notice, evidenced by resolution of the withdrawing Party's governing body. In the event of withdrawal of one Party, the governing body of the withdrawing Party may allocate its vote by resolution to the other Party representing the county.

In the event of withdrawal by one Party, this Agreement shall remain in full force and effect as to all remaining Parties.

- b. A Party withdrawing from this Agreement shall, prior to withdrawal, pay the full amount of any unpaid assessments to the Board. A Party withdrawing from this Agreement shall not receive a distribution of property or funds until such time as this Agreement is terminated by all Parties pursuant to this Article IX. Such disposition of property shall be in accordance with the provisions of Paragraph 3 of this Article IX.

## 2. Termination

- a. This Agreement shall terminate upon the occurrence of any one of the following events:
  - i. When necessitated by operation of law or as a result of a decision by a court of competent jurisdiction; or
  - ii. When the Parties agree, by resolution adopted by their respective Board of Commissioners, to terminate this Agreement and all obligations of the Board shall have been paid or otherwise defeased in full.
  - iii. When both Parties representing the same county withdraw pursuant to paragraph 1 above.

## 3. Disposition of Property and Funds

- a. At such time as this Agreement, any property interest remaining in the Board, following the discharge of all obligations owed by the Board, shall be disposed of and the proceeds of the property along with any surplus monies shall be returned to the Parties in proportion to their contribution.

## **ARTICLE X. NOTICES**

For purposes of delivery of any notices to the Parties hereunder, the notice shall be effective if delivered in writing to:

Ramsey County: 1425 Paul Kirkwold Drive, Arden Hills, MN 55112

Ramsey County Regional Railroad Authority: 214 4th Street East, St. Paul, MN 55101

Washington County: 14949 62nd Street North, Stillwater, MN 55082

Washington County Regional Railroad Authority: 11660 Myeron Road North, Stillwater, MN 55082

## **ARTICLE XI. LIABILITY**

### **1. Responsibility for Own Acts**

- a. Each Party agrees that it will be responsible for its own acts and omissions, the acts and omissions of its commissioners, officers and employees and any liability resulting therefrom to the extent authorized by law. No Party shall be responsible for the acts of the other Parties and the results thereof. Each Party acknowledges and agrees that it is insured or self-insured consistent with the limits established in Minnesota state statutes. Each Party agrees to promptly notify all Parties if it becomes aware of any potential Board related claim(s) or facts giving rise to such claims.

### **2. No Waiver**

- a. Notwithstanding the foregoing, the terms of this Agreement are not to be construed as, nor operate as, waivers of a Party's or the Board's statutory or common law immunities or limitations on liability, including but not limited to Minn. Stat. Chapter 466. Further, the Party's and the Board's obligations set forth in this Article and otherwise in this Agreement, are expressly limited by the provisions of Minn. Stat. Chapter 466, Minn. Stat. Section 471.59, and any other applicable law or regulation providing limitations, defenses or immunities to the Parties and to the Board.

### **3. Indemnification**

- a. The GL JPB shall fully defend, indemnify and hold harmless the Parties, their elected officials, agents, employees, and volunteers against all claims, losses, liability, suits, judgments, costs and expenses, including reasonable attorney's fees, arising directly or indirectly from any act or omission of the Board, its officers or agents. To the full extent permitted by law, actions by the Parties pursuant to this Agreement are intended to be and shall be construed as a "cooperative activity" and it is the intent of the Parties that they shall be deemed a "single governmental unit" for the purpose of liability, as set forth in Minnesota Statutes, Section 471.59, subd. 1a (a).

## **ARTICLE XII. MISCELLANEOUS**

### **1. Amendments**

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

### **2. Records, Accounts, and Reports**

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

### **3. Counterparts**

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

### **4. Severability**

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

### **5. Entire Agreement**

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

## 6. Alternative Dispute Resolution

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

- a. A Party shall provide written notice to the Board describing the perceived conflict, positions, and underlying reasons.
- b. The Board shall provide written response to notice within seven (7) days of receipt of notice.
- c. The Parties shall meet within 14 days of receipt of response with a neutral facilitator. The neutral facilitator will be a representative from the Minnesota Office of Collaboration and Dispute Resolution. Costs of such facilitator shall be shared equally by all parties to the dispute.
- d. At the first meeting, the facilitator will assist the Parties in identifying the appropriate parties and participants in the dispute resolution process, their concerns, a meeting agenda and design for any subsequent meetings. The Parties shall agree on a process for resolving the problem that would involve additional negotiations, mediation or arbitration.
- e. In developing the process, the Parties will be guided by the following principles:
  - i. The Parties will attempt in good faith to reach a negotiated settlement.
  - ii. The Parties agree that there must be fair representation of the parties directly involved on the dispute.
  - iii. The Parties will use legal proceedings as a last resort.
  - iv. In the event that the Parties are unable to resolve the dispute, each Party retains all rights, remedies, or defenses that it had prior to entering the process.
- f. The parties will report to the Board within 60 days of their first meeting on the resolution of the dispute or a recommendation to commence legal proceedings.

## 7. Minnesota Laws Govern

The Laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the Parties and their performance. The appropriate venue and jurisdiction for any litigation shall be in State district court located within the County of Washington, State of Minnesota.

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

# WASHINGTON COUNTY

Lisa Weik, Chair	Date
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Kevin Corbid	Date
County Administrator	

Approved as to form:

Assistant County Attorney      Date

**WASHINGTON COUNTY REGIONAL  
RAILROAD AUTHORITY**

Lisa Weik, Chair

Date

Kevin Corbid

Date \_\_\_\_\_

County Administrator

Approved as to form:

Assistant County Attorney

Date \_\_\_\_\_

**RAMSEY COUNTY**

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Toni Carter, Chair	Date
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Chief Clerk	Date
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Approved as to form:

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Assistant County Attorney	Date
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**RAMSEY COUNTY REGIONAL  
RAILROAD AUTHORITY**

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Rafael Ortega, Chair                      Date

Approval Recommended:

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Ted Schoenecker                      Date  
Public Works Director

Approved as to form:

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Assistant County Attorney              Date