

**AMENDED AND RESTATED
JOINT POWERS AGREEMENT**

This Amended and Restated Joint Powers Agreement, hereinafter together with any supplements, amendments, or exhibits (AGREEMENT) is made and entered into on this _____ day of _____, 200____, by and between the **DAKOTA COUNTY REGIONAL RAILROAD AUTHORITY (DAKOTA)**, **HENNEPIN COUNTY REGIONAL RAIL AUTHORITY (HENNEPIN)**, **RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY (RAMSEY)**, **WASHINGTON COUNTY REGIONAL RAILROAD AUTHORITY (WASHINGTON)**, the city of **COTTAGE GROVE (COTTAGE GROVE)**, the city of **HASTINGS (HASTINGS)**, the city of **MINNEAPOLIS (MINNEAPOLIS)**, the city of **ST. PAUL (ST. PAUL)**, the city of **NEWPORT (NEWPORT)**, the city of **ST. PAUL PARK (ST. PAUL PARK)**, **DENMARK TOWNSHIP (DENMARK)**, and the **UNIVERSITY OF MINNESOTA (UNIVERSITY)** under the authority of and pursuant to the provisions of Minn. Stat. Chapters 398A and 471.59.

WITNESSETH:

WHEREAS, DAKOTA, HENNEPIN, RAMSEY, WASHINGTON, COTTAGE GROVE, HASTINGS, ST. PAUL PARK, NEWPORT, and DENMARK entered into a Joint Powers Agreement establishing the Red Rock Corridor Commission (COMMISSION) pursuant to Minn. Stat. §§ 471.59 and 398A.04, subd. 9, said AGREEMENT dated march 1999, and

WHEREAS, DAKOTA, HENNEPIN, RAMSEY, WASHINGTON, COTTAGE GROVE, HASTINGS, ST. PAUL PARK, NEWPORT, and DENMARK desire to amend and restate the Joint Powers Agreement and include MINNEAPOLIS, ST. PAUL, and the UNIVERSITY as parties to this AGREEMENT; and

WHEREAS, the Red Rock Corridor is defined as the transitway corridor originating in Hastings in Dakota County, through Washington County, Ramsey County, and terminating in downtown Minneapolis in Hennepin County with connections to other multi-modal transportation options; and

WHEREAS, the Red Rock Corridor has significant transportation, safety, and land use issues; and

WHEREAS, there are opportunities for a variety of multi-modal transportation improvements in the Red Rock Corridor, including highway commuter and freight line, bus rapid transit, multi-use paths, recreational trails including bicycle trails, and Intelligent Transportation Systems (ITS); and

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

WHEREAS, the COMMISSION has completed a commuter rail feasibility study on the Red Rock Corridor and determined that planning for commuter rail in the Red Rock Corridor should continue; and

WHEREAS, Minn. Stat. § 174.80 et seq. grants authority and responsibility to the Minnesota Department of Transportation (MN-DOT) to design, develop, construct, and operate commuter rail in Minnesota and to enter into agreements with joint powers boards to carry out these responsibilities; and

WHEREAS, the COMMISSION intends to work collaboratively with MN-DOT and the Metropolitan Council for the planning and development of commuter rail or other rail or rail beneficial related transit modes in the Red Rock Corridor; and

WHEREAS, it is the desire of the parties hereto to amend and restate the March 1999, Joint Powers Agreement in this agreement.

NOW, THEREFORE, IN CONSIDERATION OF the mutual promises and covenants herein, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

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

1. **Agreement** means this Amended and Restated Joint Powers Agreement.
2. **Commission** shall mean the Joint Powers body established herein.
3. **Effective Date** shall be the date the last original signatory approves this AGREEMENT.
4. **Financial Member** means individually the Dakota County Regional Railroad Authority, Hennepin County Regional Railroad Authority, Ramsey County Regional Railroad Authority, or Washington County Regional Railroad Authority.
5. **Original Signatory** shall mean, individually, Dakota, Hennepin, Ramsey, Washington, Cottage Grove, Hastings, Newport, St. Paul Park, and Denmark.

ARTICLE 2. PURPOSE

The parties have entered into this agreement for the purpose of jointly exercising the powers granted to Regional Railroad Authorities organized under the provisions of Minn. Stat. Ch. 398A, including but not limited to the acquisition and management of federal, state, and local funding in conjunction with the Minnesota Department of Transportation and the Metropolitan Council, and may perform any responsibilities delegated by the Commissioner of Transportation subject to the conditions that sufficient funds are received.

ARTICLE 3. TERM

This AGREEMENT shall be effective (EFFECTIVE DATE) when adopted by all ORIGINAL SIGNATORIES. The EFFECTIVE DATE of this AGREEMENT shall be the date on which the last ORIGINAL SIGNATORY approves the AGREEMENT by action of its governing board or council. This AGREEMENT shall remain in full force and effect until terminated by the parties pursuant to Article 9 of the AGREEMENT.

The UNIVERSITY, MINNEAPOLIS, and ST. PAUL will become parties to this AGREEMENT on the later of the date approved by their governing body or the EFFECTIVE DATE herein stated. Provided, however, that if the UNIVERISTY, MINNEAPOLIS, or ST. PAUL, individually, fails to approve the AGREEMENT within one (1) year of the EFFECTIVE DATE, they will not become parties to this AGREEMENT except by amendment to this AGREEMENT.

ARTICLE 4. JOINT POWERS BOARD

There is hereby created a Joint Powers Board as a public entity, to be known as the Red Rock Corridor Commission. The COMMISSION shall be an entity separate from its member bodies and shall not be deemed an agent or partner of the member bodies, and the member bodies shall not be liable for the actions of the COMMISSION. The COMMISSION shall have full authority to exercise all powers stated herein.

ARTICLE 5. MEMBERSHIP

- A. Each Financial Member shall appoint one (1) member and one (1) alternate to the COMMISSION. All other parties to this AGREEMENT shall appoint one (1) member and one (1) alternate to the COMMISSION.

Commission members and alternates must be members of the party, which appoints them. If a Commission member ceases to be a member of such party, his or her membership on the Commission shall cease on the date of cessation of such membership, and the appointing party shall appoint a new member or alternate.

Additional parties may become members of the COMMISSION by amendment to this AGREEMENT pursuant to Article 10 hereof.

Members of the COMMISSION appointed by a Financial Member will have two (2) votes. All other members of the COMMISSION will have one (1) vote.

- B. COMMISSION membership terms shall commence on January 15 of a calendar year and end on January 14 of the next succeeding year, or until a successor is appointed.

ARTICLE 6. POWERS OF COMMISSION

The COMMISSION has such authority as is necessary and proper to make all decisions to carry out its purpose as described in Article 2. Such powers shall be subject to the provisions of Minn. Stat. § 471.59 and will include, but not be limited to, any or all of the following powers to the extent provided by law or not otherwise limited by this AGREEMENT.

- A. Adopt an annual budget, together with a statement of the sources of funding and an estimate of the amounts required of each Financial Member.
- B. Enter into transactions, including contracts or leases, required in furtherance of this AGREEMENT and statutory mandate, and enforce such transactions to the extent available in equity or at law. The contracting and purchasing requirements of one party designated by the COMMISSION shall apply hereto. The COMMISSION may approve any contract relating to this AGREEMENT up to the amount approved in the annual budget, and may authorize the Chair of the COMMISSION to execute those contracts.

- C. Adopt by-laws and any amendments consistent with this AGREEMENT required for the exercise of the powers and purposes stated in this AGREEMENT. The by-laws may provide for the appointment of ex officio, non-voting members to the COMMISSION by the COMMISSION. The by-laws shall be effective only if approved by unanimous vote of all Financial Members of the COMMISSION.
- D. Apply for and accept gifts, grants, loans of money, other property, or assistance on behalf of the contracting parties from the United States government, the State of Minnesota, or any person, association, or agency for any of its purposes, including any grant which may be available, enter into any agreement in connection therewith, and hold, use and dispose of such money, other property, and assistance in accordance with the terms of the gifts, grants, or loans relating thereto.
- E. Acquire and hold such real and personal property as may be required to accomplish the purposes of this AGREEMENT and, upon termination of this AGREEMENT, make distribution of such property as is provided for in this AGREEMENT.
- F. Employ agents and employees, and to fix the compensation and all other terms and conditions of employment thereof.
- G. Incur debts, liabilities, or obligations which do not constitute a debt of any of the parties. The Joint Powers Board does not have authority to incur debts, liabilities, or obligations which constitute a debt of any of the parties.
- H. Sue and be sued in its own name.

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

ARTICLE 7. OFFICERS, EMPLOYEES, AND SERVICES

- A. The COMMISSION shall elect a Chair and Vice-Chair from its membership at its first regular meeting each year. The Chair and Vice-Chair shall be elected by the COMMISSION from its membership for a term of one (1) year. The Chair shall preside at all meetings of the COMMISSION, may establish such subcommittees as may be needed from time to time and shall perform other duties and functions as may be determined by the COMMISSION. The Vice-Chair shall preside over and act for the COMMISSION during the absence of the Chair. If both the Chair and Vice-Chair are absent, the COMMISSION may elect a temporary Chair to conduct its business, provided a quorum is present.

Notwithstanding any provision to the contrary, following the EFFECTIVE DATE of this AGREEMENT, the term of the prior COMMISSION's officers shall automatically expire and a special election shall be held to elect interim officers. The term of the interim officers commence upon election by the COMMISSION and continue until the first regular meeting of the following year, at which time elections will be held to elect permanent officers pursuant to this section who will serve a term according to this section.

- B. **Executive Committee.** The COMMISSION shall establish an Executive Committee of the COMMISSION consisting of one (1) representative of each Financial Member. The Executive Committee shall develop and make recommendations to the COMMISSION regarding the ongoing responsibilities of the COMMISSION, and shall have such other duties as set forth in the COMMISSION's by-laws.
- C. **Staff.** Each party may provide staff support to the COMMISSION, subject to the approval of the COMMISSION.
- D. **Vacancies.** If an appointment of any COMMISSION member or alternate is vacated before the end of his or her term, the vacancy shall be filled by appointment by the appropriate appointing governing body. Vacancies shall be filled within thirty (30) days of their occurrence. A vacancy shall be deemed to have occurred when any of the conditions specified in Minn. Stat. § 351.02 exist.
- E. **Meetings.** The COMMISSION shall meet at regular intervals at such times and places as the COMMISSION shall establish in its by-laws. Special meetings may be held on reasonable notice by the Chair or any two members upon terms and conditions as the COMMISSION may determine and that conform to the Minnesota Open Meeting Law, Minn. Stat. § 13D.
- F. **Committees.** The COMMISSION may establish standing committees of the COMMISSION by providing for such committees by resolution. The Chair may establish ad hoc committees of the COMMISSION.

ARTICLE 8. FUNDING

- A. **Financial Partners' Contribution.** Within sixty (60) days of the EFFECTIVE DATE, the COMMISSION shall review the budget for the calendar year in which the EFFECTIVE DATE occurs and determine the balance of unencumbered funds. The COMMISSION shall credit all unencumbered funds (BALANCE CREDIT) to the Dakota County Regional Railroad Authority, Ramsey County Regional Railroad Authority, and Washington County Regional Railroad Authority in proportion to their respective contributions. The COMMISSION shall thereafter modify or affirm the budget for the remainder of the calendar year, and shall assess the Financial Members their proportionate share of the budget as follows:

10.0%	Dakota County Regional Railroad Authority
17.5%	Hennepin County Regional Railroad Authority
37.5%	Ramsey County Regional Railroad Authority
35.0%	Washington County Regional Railroad Authority

The assessment for Dakota, Ramsey, and Washington County Regional Railroad Authorities shall be deducted from their respective BALANCE CREDITS.

- B. **Annual Budget.** For the calendar year next following the calendar year in which the EFFECTIVE DATE occurs and all subsequent years, the COMMISSION shall establish and approve a budget. Each Financial Member shall be assessed for its proportionate share of the budget according to the schedule above. The Dakota, Ramsey, and Washington County Regional Railroad Authorities' assessment shall be first deducted from any remaining BALANCE CREDIT, with any remainder due as in Section D hereof.
- C. **Financial Members' Budget Approval.** Adoption of the budget shall require unanimous approval of the Financial Members.
- D. **Contribution Date.** Except for any initial contribution required by this AGREEMENT, assessments made under the provisions of this article shall be paid by each Financial Member by January 3 of each year. The initial contribution shall be made within sixty (60) days of the adoption of the budget pursuant to Article 8(A) hereof.
- E. **Budgeting, Accounting, Fiscal Agent, and Other Services.** The COMMISSION may contract with any party to provide contract management, legal review, and budgeting and accounting services necessary or convenient for the COMMISSION and otherwise act as the COMMISSION's fiscal agent. Such services shall include, but not be limited to, management of all funds, including contributions and grant monies, payment for contracted services, and relevant bookkeeping and record keeping. The contracting and purchasing requirements of the member so selected shall apply to transactions of the COMMISSION. Such member shall identify the staff person to work as liaison with the COMMISSION.
- F. **Accountability for Funds.** All funds shall be accounted for according to generally acceptable accounting principles. A report on all receipts and disbursements shall be forwarded to the COMMISSION on an annual basis. The parties have the authority to request reports pertaining to any and all budgeting and accounting services. All interest earned from established COMMISSION funds shall be credited back to that same fund.
- G. **Cost Sharing Agreement.** The Financial Members may enter into, but are not bound to enter into, cost sharing agreements with each other for the purpose of providing additional local funding to carry out the purposes of the commission, including, but not limited to, the following:
- 1) It is contemplated that the Financial Members will enter into a cost sharing agreement for the purposes of funding a local 20% share for a Red Rock Corridor alternatives analysis-scoping study to be matched by a federal 80% share from the federal Twin Cities Transitways Grant. By entering into this joint powers agreement, the Federal Members agree to enter into the cost sharing agreement.
 - 2) It is contemplated that some or all of the Financial Members will also enter into a cost sharing agreement for the purposes of funding a local share for draft environmental impact statement to be matched by a federal funding share of draft environment impact statement at a future date.

ARTICLE 9. WITHDRAWAL AND TERMINATION

- A. **Withdrawal.** Any party may withdraw from this AGREEMENT upon 90-days prior written notice evidenced by resolution of the party's governing body to the COMMISSION. In the event of withdrawal by any party, this AGREEMENT shall remain in full force and effect as to all remaining parties.
- B. **Effect of Withdrawal, Disposition of Property, Funds, and Obligations.** A party withdrawing from this AGREEMENT shall, prior to such withdrawal, pay the full amount of any unpaid assessments to the COMMISSION as defined in Article 8. 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 9. Such disposition of property shall be in accordance with the provisions of Section D of this Article 9.

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

- C. **Termination.** This AGREEMENT shall terminate upon the occurrence of any one of the following events:
- (a) When necessitated by operation of law or as a result of a decision by a court of competent jurisdiction; or
 - (b) When a majority of the parties agrees to terminate this AGREEMENT.
- D. **Disposition of Property and Funds.** At such time as this AGREEMENT is terminated, any property interest remaining in the COMMISSION, following discharge of all obligations owed by the COMMISSION, shall be disposed of and the proceeds of the property shall be returned to the parties in proportion to their contribution.
- E. **Effect of Withdrawal of Financial Member on Budget.** In the event a Financial Member withdraws, the unpaid assessment allocable to such member in the year of withdrawal and subsequent years shall be reallocated to the remaining Financial Members in proportion that the assessment allocations under Article 8(A) hereof bear to each other.

ARTICLE 10. MISCELLANEOUS

- A. **Amendments.** This AGREEMENT may be amended by unanimous agreement of the parties as evidenced by resolutions adopted by the respective governing bodies.
- B. **Records, Accounts, and Reports.** The COMMISSION shall establish and maintain such funds and accounts as may be required by good accounting practices. The books and records

of the COMMISSION shall be subject to the provisions of Minn. Stat. Ch. 13, the Minnesota Government Data Practices Act, and Minn. Stat. § 16C.05, subd. 5. The COMMISSION, within one hundred twenty (120) days after the close of each fiscal year, which shall be January 1 to December 31, shall give a complete written report of all financial activities for such fiscal year to the parties.

- C. **Counterparts.** This AGREEMENT may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
- D. **Severability.** The provisions of this AGREEMENT are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of the AGREEMENT is for any reason held to be contrary to law, or contrary to any rule or regulation having the force and effect of law, such decision shall not affect the remaining portions of this AGREEMENT.
- E. **Entire Agreement.** This AGREEMENT constitutes the entire agreement between the parties and supersedes all prior written or oral agreements relating to the COMMISSION.
- F. **Alternative Dispute Resolution.** In the event of a dispute arising under this AGREEMENT, the parties and the COMMISSION agree to attempt to resolve their dispute by following the process described below:
 - (1) A party shall provide written notice to the COMMISSION describing perceived conflict, positions, and underlying reasons.
 - (2) The COMMISSION or member shall provide written response to notice within seven (7) days of receipt of notice.
 - (3) The parties shall meet within 14 days of receipt of response with a neutral facilitator. The neutral facilitator will be a representative from the Minnesota Office of Dispute Resolution. Costs of such facilitator shall be shared equally by all parties to the dispute.
 - (4) At the first meeting, the neutral facilitator will assist the parties in identifying the appropriate parties and participants in the dispute resolution process, their concerns, a meeting agenda and design for any subsequent meetings. The parties shall agree on a process for resolving the problem that would involve additional negotiations, mediation, or arbitration.
 - (5) In developing the process, the parties will be guided by the following principles:
 - (i) the parties will attempt in good faith to reach a negotiated settlement;
 - (ii) the parties agree that there must be fair representation of the parties directly involved in the dispute;

- (iii) the parties will use legal proceedings as a last resort; and
 - (iv) in the event the parties are unable to resolve the dispute, each party retains all rights, remedies, or defenses it had prior to entering the process.
- (6) The parties will report to the COMMISSION within 60-days of their first meeting on the resolution of the dispute or a recommendation to commence legal proceedings.

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