

**AMENDMENT NO. 2  
TO JOINT POWERS AGREEMENT  
ESTABLISHING THE  
NORTHSTAR CORRIDOR DEVELOPMENT AUTHORITY**

**THIS AMENDMENT NO. 2** is made by and between the undersigned Counties, Regional Railroad Authorities, Cities, and Townships, all being governmental units of the State of Minnesota, (hereinafter the "Members") pursuant to Minn. Stat. §§ 471.59 and 398A.04, subd. 9, and shall be effective upon execution by each of the Members.

**WHEREAS**, the Members have entered into a joint powers agreement, as amended, (hereinafter the "Agreement") for the purpose of meeting the future transportation needs of the Northstar Corridor from the St. Cloud area to downtown Minneapolis; and

**WHEREAS**, the Northstar Corridor Development Authority (hereinafter the "Authority") has, in collaboration with the Minnesota Department of Transportation ("Mn/DOT") and the Metropolitan Council, completed the design and construction of the first phase of the Northstar commuter rail system from Big Lake to Minneapolis; and

**WHEREAS**, revenue service of the first phase of the Northstar commuter rail system commenced on November 16, 2009 and is owned and operated by the Metropolitan Council; and

**WHEREAS**, the Members desire to amend the Agreement to streamline the operations of the Authority, in order to efficiently and cost effectively complete the Northstar commuter rail system to the City of St. Cloud.

**NOW, THEREFORE**, in consideration of the mutual promises and benefits that each Member shall derive herefrom, and other good and valuable consideration, receipt of which is hereby acknowledged, the Members agree to amend the Agreement as follows:

1. Article I of the Agreement, as previously amended, is further amended to read as follows:

**ARTICLE I. PURPOSE**

The purpose of the parties in entering into this Agreement is to analyze the feasibility and environmental impacts of integrated transportation improvements along the Highway 10 corridor, including highway improvements, commuter and freight rail, recreational trails, ITS, safety and related land use issues. The method of accomplishing the purpose of this Agreement is the establishment of a joint powers board to provide a mechanism whereby the parties can jointly address the need for enhanced

transportation along the corridor, congestion relief, decreased traveling time, and systematic land use and development planning.

Additionally, the purpose of the parties is work together to meet the future transportation needs of the Northstar Corridor with the following four goals:

- (1) Improve mobility and safety;
- (2) Minimize adverse environmental impacts and foster positive environmental effects;
- (3) Encourage transportation-supportive land use and development patterns; and
- (4) Provide a cost-effective and efficient transportation system.

In the furtherance of this purpose, the parties authorize the Authority to accept the delegation from the State and/or the Metropolitan Council of the responsibility and authority to develop commuter rail in the Northstar Corridor, including but not limited to preparing an advanced corridor plan, financial and operating plans, negotiating with the railroads, preliminary engineering, final design, and construction.

2. Article IV, Paragraph H of the Agreement, as previously amended, is further amended to read as follows:

H. The Authority shall perform the responsibilities delegated by the Commissioner of Transportation and/or the Metropolitan Council for development and construction of commuter rail, pursuant to an agreement with the State of Minnesota and subject to the condition that sufficient funds are received.

3. Article V, Section 2, Paragraph B of the Agreement, as previously amended, is further amended to read as follows:

B. The Authority may enter into any contract necessary or proper for the exercise of its powers or the fulfillment of its duties, including agreements entered into pursuant to Minn. Stat. §§ 471.59, 398A.04, 473.4057, and 174.82, and enforce such contracts to the extent available in equity or at law. The Authority or the Executive Committee may approve any contract relating to this Agreement up to the amount approved in the annual budget, and may authorize the Chair of the Authority to execute those contracts. No payment on any invoice for services performed by a consultant or any other person or organization providing services in connection with this Agreement shall be authorized unless approved by the Executive Committee or as otherwise authorized by the Executive Committee.

4. Article V, Section 2, Paragraph G of the Agreement, as previously amended, is further amended to read as follows:

G. The Authority may acquire, hold, and dispose of 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, agreements relating to the financing of the Northstar Corridor, or agreements with the State of Minnesota or the Metropolitan Council.

5. Article VI, Section 2 and 3, of the Agreement, as previously amended, is further amended to read as follows:

Section 2: Chair and Vice Chair.

The Authority shall elect a Chair and Vice Chair from its membership at its first regular meeting. The Chair and Vice Chair shall be elected by the Authority from its membership for a two year term and must be a county commissioner representing a county regional railroad authority. The Chair shall preside at all meetings of the Authority, 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 Authority. The Vice Chair shall preside over and act for the Authority during the absence of the Chair. The Vice Chair shall also perform the duties and functions of the Treasurer as provided for in the by-laws. If both the Chair and Vice Chair are absent, the Authority may elect a temporary chair to conduct its business, provided a quorum is present.

Section 3: Committees.

A. Executive Committee. The Authority shall establish an Executive Committee of the Authority consisting of the following: two members from the Anoka County Regional Railroad Authority; two members from the Sherburne County Regional Railroad Authority; two members from the Hennepin County Regional Railroad Authority; one member from the Stearns County Regional Railroad Authority; and one member from the Stearns County Board of Commissioners. In the absence of an appointed commissioner at a meeting of the Executive Committee, an alternate commissioner may exercise the voting rights of the member. In the event that only one appointed commissioner is present at a meeting of the Executive Committee, that commissioner may cast two votes. The Chair of the Authority shall act as the Chair of the Executive Committee.

The duties of the Executive Committee shall include the following:

1. Subject to the Authority's direction, the Executive Committee shall fulfill the day-to-day responsibilities of the Authority for the implementation of commuter rail in the Northstar Corridor, including the Authority's responsibility to act as the Corridor Coordinating Committee described in Minn. Stat. § 174.86, subd. 5.
2. The Executive Committee shall be responsible for approving contracts and expenses relating to this Agreement up to the amount approved in the annual budget and authorizing the Chair of the Authority to execute those contracts, approving invoices within approved contract amounts, addressing personnel issues, fulfilling the management responsibilities of the Authority, and performing such other duties as set forth in the Authority's bylaws.
3. The Executive Committee shall recommend the annual administrative budget to the Authority. The budget must be recommended by 4/5th majority vote of the Executive Committee.
4. The Executive Committee shall be responsible for making recommendations to the Authority concerning any decision regarding the capital costs or capital budget for the Northstar Corridor. Any decision of the Authority that would increase the capital contribution of any member must be approved by a unanimous vote of the Executive Committee and must be approved by each of the funding partner's board of commissioners.

6. Article VI, Section 6, of the Agreement is amended to read as follows:

Section 6: Meetings.

An initial organizational meeting of the Authority shall be held at the Sherburne County Courthouse, on May 1, 1997, at 4:30 p.m. Thereafter, the Authority shall meet at regular meetings at such times and places as the Authority shall establish in its bylaws. Special meetings may be held on reasonable notice by the Chair or any two representatives upon terms and conditions as the Authority may determine. The Authority shall meet at least twice in each calendar year.

7. Article VII, Section 2, of the Agreement is amended to read as follows:

Section 2: On-Going Administrative Expenses.

A. By August 15 of each year, the Authority shall adopt an annual administrative budget for the following calendar year, and shall determine the amount of contribution, if any, by each member county regional railroad authority. The budget and the resulting assessments shall be

approved by a two-thirds majority vote of the members present at a meeting of the Authority called for that purpose. Any excess funds in the administrative budget remaining at the end of the fiscal year shall be carried forward in such manner as to reduce proportionately each member's contribution for the following fiscal year.

B. If the Authority incurs any administrative expenses as a result of a claim for damages, the administrative expenses paid shall be assessed against each member in the same proportion as the assessments described in paragraph A above, as applicable.

8. Article IX, Section 2, of the Agreement is amended to read as follows:

Section 2: Records, Accounts and Reports.

The Authority shall establish and maintain such funds and accounts as may be required by good accounting practices. The books and records of the Authority shall be subject to the provisions of Minn. Stat. Chapter 13, the Minnesota Government Data Practices Act, and Minn. Stat. § 16C.05, subd. 5. The Authority, within one hundred and 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.

9. Article IX is amended by adding a new Section 6 to the Agreement to read as follows:

Section 6: Liability

A. Separate Public Entity. The Authority is a public entity separate from the parties and shall not be deemed by virtue of this Agreement to be an agent or partner of the parties to this Agreement, the Metropolitan Council, the Minnesota Department of Transportation, or any grantee, nor shall the parties be liable for the actions of the Authority, the Metropolitan Council, the Minnesota Department of Transportation or any grantee.

B. Responsibility for Own Acts and Omissions. 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 there from 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 Statute. Each party agrees to promptly notify all parties if it becomes aware of any potential Authority related claim(s) or facts giving rise to such claims.

C. No Waiver. Notwithstanding the foregoing, the terms of this 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, Minn. Stat. Chap. 466. Further, the party's obligations set forth in this Article and otherwise in this Agreement, are expressly limited by the provisions of Minn. Stat. Chap. 466, Minn. Stat. § 471.59, and any other applicable law or regulation providing limitations, defenses or immunities to the parties and to the Authority.

- 10. This Amendment No. 2 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.
- 11. The terms and conditions set forth in the Agreement, as amended, shall continue in full force and effect, except as modified herein, and shall apply to this Amendment No. 2 as if fully set forth herein.

**IN WITNESS WHEREOF**, the parties to this Amendment No. 2 to the Joint Powers Agreement Establishing the Northstar Corridor Development Authority have hereunto set their hands on the date written below:

ATTEST:

CITY OF MINNEAPOLIS

BY: \_\_\_\_\_

BY: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Approved as to form and Execution:

BY: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

