

Reference Numbers:

GBRT Project:

69006

Metropolitan Council:

191069-A

PROJECT: **GOLD LINE BUS RAPID TRANSIT PROJECT**
MASTER AGREEMENT: **Master Funding Agreement #191069 – St. Paul Regional Water Services**
PARTIES:

- **Metropolitan Council (“Council”)**
- **St. Paul Regional Water Services, State of Minnesota**

SUBORDINATE FUNDING AGREEMENT #1 TO MFA
St. Paul Regional Water Services – RE: Misc. Watermain Replacement

This Subordinate Funding Agreement (“SFA”) with the Board of Water Commissioners of the City of St. Paul (“Board”), a municipal corporation under the laws of the State of Minnesota doing business as Saint Paul Regional Water Services (“SPRWS”), is entered by and between the above-named Parties.

WHEREAS:

1. The Parties entered into a Master Funding Agreement (“MFA”) for the Gold Line Bus Rapid Transit Project (“Project”), effective the _____ day of _____, 2020.
2. The Parties provided in the MFA that certain aspects of funding for the Project, or components related to but not part of the Project, would be determined in subsequent SFAs.
3. The Project includes work requested by SPRWS, hereby referred to as “Local Work,” for which SPRWS will fund.
4. The Parties desire to enter this SFA to provide funding for proposed components related to, but not part of the Project, as described in the Specific Description of Funding Authorization of this agreement.

NOW, THEREFORE, in reliance on the statements in these recitals, the Parties hereby agree as follows:

1. **Amount of Authorized Funding.** The total cost for Local Work authorized by this SFA shall be up to but not exceeding the amount of \$115,550, unless authorized in a subsequent agreement or an amendment to this SFA.
2. **Payment.** The funds shall be payable in accordance with the payment schedule set forth in in Exhibit A. Any changes to the scope or budget needed to complete the Local Work authorized under this SFA will be addressed according to the terms outlined in the MFA.
3. **SFA Budget.** The budget for the Council’s activities described in this SFA is provided in Exhibit A. SPRWS funds provided for this SFA may only be used for reimbursing the Council’s costs for activities to be directly incurred within the described Specific Description of Funding Authorization and as detailed in the MFA.

- 4. Specific Description of Funding Authorization.** Activities to be performed by the Council and funded by SPRWS include: project management; private utility coordination; development of 60%, 90%, and 100% design plans and specifications; and 60%, 90%, and 100% construction cost estimates for the reconstruction of an existing water main, services, and in-line valves. The water main is generally located under Hudson Road, starting at the Plum Street/Bates Avenue intersection and continuing eastward to a point approximately 185' east of Frank Street, generally as shown in Exhibit B.

The Council will incorporate the Local Work design plans in the proposed Project construction bid documents if: a) the environmental review of the Project and the components described in this SFA allow the construction of the Local Work; and b) the Project is permitted to proceed to construction. The Local Work construction specifications will be incorporated in the overall specifications within the Project construction bid documents. No separate or standalone specifications for the Local Work design plans will be created.

- 5. Future Construction of Local Work.** At least one month prior to the Council opening construction bids, SPRWS is required to enter into a subsequent SFA authorizing the Council to construct this Local Work and reimburse the Council cost. Failure to enter into an SFA for construction will result in the Council excluding or removing the Local Work from the bid documents through an addendum and ending any further obligation by the Council.

If SPRWS notifies the Council it does not intend to enter into an SFA to construct the Local Work along with the construction of the Project, SPRWS will be responsible for additional costs incurred by the removal of the Local Work from the Project's design plans and/or construction bid documents. The Parties will enter into an SFA for SPRWS to reimburse the Council for those costs.

- 6. Environmental Documentation.** The Federal Transit Administration ("FTA") is the Project's lead federal agency under the National Environmental Policy Act of 1969 ("NEPA") and the Council is the Responsible Governmental Unit under the Minnesota Environmental Policy Act of 1973 ("MEPA"). The Council completed an Environmental Assessment in 2018 for the Project and the Local Work described in this SFA and entered into a Finding of No Significant Impact ("FONSI") on January 17, 2020.

If the Council determines that additional environmental documentation is required for future construction of the Local Work, the Council will complete the required environmental analysis following execution of a subsequent agreement of both Parties or an amendment to the SFA to authorize this work.

- 7. Release of Design Plans.** If SPRWS does not enter into an SFA with the Council to construct the Local Work along the construction of the Project, but requests the Council to release the Local Work design plans to SPRWS, for the purposes of current or future use of the plans, the Council shall release the design plans provided an amendment to this SFA or a subsequent agreement is executed by the Parties to address indemnification, liability, claims, access, copyright, and related issues as a result of the release of the Local Work design plans.
- 8. Project Activity Periods.** The project activity period for the purposes of this SFA shall be effective upon execution and shall terminate on the later date of:

- a. the date all costs under this SFA have been paid,
 - b. unless terminated earlier consistent with the terms of the MFA.
9. **Entry onto Easements and Rights-of-Way.** In order to fulfill obligations under this SFA, the Parties hereby grant to each other the right to enter onto property and any easements and rights-of-way that the Parties may have obtained.
10. **Project Management.** The Council shall perform, direct, and supervise all Local Work that the Council deems required or necessary and appropriate to fulfill the terms of this SFA. All Local Work shall be performed by the Council or the Council's contractors, as directed by the Council, in accordance with the Contract Documents, defined in Exhibit A, for the Project. The Council will actively pursue and manage each warranty identified for the duration of the warranty.
11. **No Guarantee of Construction.** This SFA describes terms requiring SPRWS to reimburse the Council's cost for design activities associated with the requested Local Work. It does not guarantee that the Local Work will be constructed. SPRWS and the Council acknowledge that nothing in this agreement shall require the Council to take any action or make any decision that will prejudice or compromise any review or decision-making processes required under state and federal environmental laws, regulations, or rules. The Parties intend this agreement to be consistent with statutory and other legal authorities, including but not limited to MEPA and NEPA. The parties agree that this SFA does not limit the alternatives or mitigative measures that the Council may undertake in the development and construction of the Project. The Council retains the right to make decisions and necessary approvals associated with Project requirements.
12. **Incorporation.** The terms, conditions, and definitions of the MFA are expressly incorporated into this SFA except as modified herein.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE TO FOLLOW.]**

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives on the dates indicated below. Furthermore, this Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

METROPOLITAN COUNCIL

By: _____

Its: _____

Date: _____

Approved as to form:

**BOARD OF WATER COMMISSIONERS
OF THE CITY OF SAINT PAUL**

By: _____
Stephen P. Schneider, General Manager
Saint Paul Regional Water Services

By: _____
Matt Anfang, President

Date: _____

Date: _____

By: _____
Lisa Veith
Assistant City Attorney

By: _____
Mollie Gagnelius
Secretary

Date: _____

Date: _____

By: _____
John McCarthy
Interim Director, Office of Financial Services

Date: _____

LIST OF EXHIBITS

Exhibit	Description
A	Budget and Payment Schedule for Local Work
B	Preliminary Design Plans

EXHIBIT A

Budget for Local Work

Item	Cost
Design Cost	\$115,550
Maximum Amount of Authorized Funding	\$115,550

Payment Schedule for Local Work

Payment #	Payable on or before:	Amount
1	35 Days Following SFA Execution	\$38,517
2	July 1, 2020	\$38,517
3	March 1, 2021	\$38,516

