

ENVIRONMENTAL PROJECT MANAGEMENT AGREEMENT

THIS PROJECT MANAGEMENT AGREEMENT (this “Agreement”) made as of the _____, 2016 (the “Effective Date”), by and among METROPOLITAN COUNCIL, a Minnesota public corporation and political subdivision (“Metropolitan Council”), the CITY OF SAINT PAUL, a municipal corporation in the State of Minnesota (the “City”), MUSC Holdings, LLC, a Minnesota limited liability company (the “Team”), and PORT AUTHORITY OF THE CITY OF SAINT PAUL, a corporate and body politic and governmental subdivision of the State of Minnesota (the “Port Authority” or “Project Manager”). The Metropolitan Council, the City, the Team, and Port Authority are sometimes referred to individually and collectively as a “Party” or the “Parties.”

RECITALS:

A. The Metropolitan Council owns the real estate situated on the north side of Interstate 94 and Snelling Avenue property at 400 Snelling Avenue, Saint Paul, Minnesota consisting of approximately 10 acres which previously housed the Metropolitan Council’s bus barn (defined below as the “Bus Barn Property”).¹

B. The City has acquired the right to lease the Bus Barn Property pursuant to the ground lease dated April 1, 2016 (the “Ground Lease”) with the Metropolitan Council.

C. The City and the Team desire that the Team design and construct the Stadium on certain portions of the Bus Barn Property and any adjacent land secured by the Team and assigned or transferred to the City (the “Team Acquired Property”) (together, called the “Stadium Site”) where the Club (defined below) will play its home games in the MLS once the Stadium has been designed and constructed.

D. The Team has formed a club, Minnesota United Soccer Club, LLC, a Minnesota limited liability company (the “Club”), its wholly-owned subsidiary.

E. The City and the Club have entered into a playing and use agreement dated _____, 2016 (the “Use Agreement”). The Use Agreement provides for the Club’s management, operation and/or use of the Stadium, the Stadium Site and Appurtenant Areas as more clearly set forth below.

F. The City and the Team have entered into a Development Agreement dated April 1, 2016 (the “Development Agreement”) to provide for the planning, design, development, construction, equipment and furnishing of the Stadium and related infrastructure.

G. As contemplated by the Development Agreement, the Stadium and the Stadium Site will be part of the redevelopment of the approximately 34.5 acre parcel bounded by Snelling Avenue, University Avenue, Pascal Avenue and Interstate 94 (the “Midway Development Site”). As a material inducement for the Team to locate, design and construct the Stadium on the

¹ The Recitals use terms defined in Article I below.

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Stadium Site and for the Club to manage and operate the Stadium and to play its home professional soccer games in the Stadium, the City will lead a master development plan (the “Master Development Plan”) for the Midway Development Site with involvement from the surrounding community, land owners, the Club and the Team. Under the Master Development Plan, and subject to the approval of the City Council and Mayor of specific improvement projects identified and proposed in the Master Development Plan, the City will (a) participate in the funding of building the streets, sewers, storm water management and parking lots/structures necessary for the redevelopment of the Midway Development Site, (b) enter into public private partnerships to fund green spaces or public plazas, (c) collaborate with the Club and the Team on the design of public plazas and green spaces contiguous to the Stadium and (d) lead a traffic management planning process with public and private partners to encourage bike and transit use, optimize parking options and ease congestion.

H. The Parties understand that the Bus Barn Property and the Midway Development Site will most likely require environmental remediation and mitigation measures as part of the redevelopment as described above.

I. Because of Port Authority’s extensive environmental project management experience redeveloping industrial/commercial real estate, the Parties have requested that Port Authority undertake the below described environmental project management duties and responsibilities.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are hereby incorporated into this Agreement, and the mutual promises, undertakings and covenants hereinafter set forth, and intending to be legally bound hereby, the Parties covenant and agree as follows:

ARTICLE I DEFINED TERMS

Section 1.1 Defined Terms.

In addition to other terms defined herein, the following terms used in this Agreement shall have the meaning set forth below:

“Appurtenant Areas” shall mean the area outside of the Stadium Footprint within the Stadium Site including the Team Parking Areas, the Plaza Area, the Promenade and Stadium Site Green Spaces.

“Bus Barn Property” shall mean the real property leased to the City by the Metropolitan Council pursuant to the Ground Lease and described on Exhibit A.

“Business Day” shall mean any day other than a Saturday, Sunday or other day on which banks are required or authorized to close in Saint Paul, Minnesota.

“City” shall mean the City of Saint Paul, a municipal corporation of the State of Minnesota.

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“Club” shall mean Minnesota United Soccer Club, LLC, a Minnesota limited liability company.

“Construction Manager” will be the Mortenson Construction Company’s designee overseeing the Redevelopment.

“Consultants” mean all those persons hired by a Party for the Redevelopment, such as architects, engineers, construction companies, lawyers, surveyors, title companies, civil engineering, environmental engineering, environmental professionals, and legal counsel.

“Environmental Law” shall mean all Laws, including any consent decrees, settlement agreements, judgments, or orders issued by or entered into with a Governmental Authority pertaining or relating to: (a) pollution or pollution control; (b) protection of human health or the environment; (c) the presence, use, management, generation, processing, treatment, recycling, transport, storage, collection, disposal or release or threat of release of Regulated Substances; (d) the presence of Regulated Substances; or (e) the protection of endangered or threatened species.

“Environmental Liability Assurances” shall mean such no further action letters, no association letters, and other assurances issued by the MPCA and other applicable regulatory authorities.

“Environmental Related Expenses” shall be those expenses required for preparation or implementation of the RAP, applications for and implementation of Grant funds and securing Environmental Liability Assurances.

“Governmental Authority” shall mean any federal, state, county, city, local or other government or political subdivision or any agency, authority, board, bureau, commission, department or instrumentality thereof.

“Grant” and “Grants” shall have the meaning given such terms in Section 3.2 (f) of this Agreement.

“Grant-Eligible Expenses” shall be those Environmental Related Expenses that granting entities determine are eligible for Grant reimbursement.

“Green Spaces” means the Stadium Site Green Spaces and, if transferred to the City, the Midway Green Spaces that the Club maintains under this Agreement.

“Law” or “Laws” shall mean any law, statute, code, ordinance, rule, regulation or constitutional or charter provision, duly enacted or adopted by any Governmental Authority.

“League” shall mean MLS’s professional soccer league of which the Club will be member team prior to the Commencement Date.

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“Legal Requirements” shall mean present and future Laws (including Environmental Laws) applicable to the design, development, construction, equipping, use, occupancy, possession, operation, maintenance and management of the Stadium, the Appurtenant Areas, Stadium Site infrastructure and the Stadium Site.

“MPCA” means the Minnesota Pollution Control Agency and any successor agency.

“Midway Development Site” is defined in Recital G and is depicted on the attached Exhibit D.

“Midway Green Spaces” means the green spaces in the Midway Development Site outside of the Stadium Site that are an extension of the Stadium Site Green Spaces, are included in the Master Development Plan and are transferred to the City as a public space that the Club maintains under this Agreement.

“MLS” means Major League Soccer, L.L.C., a Delaware limited liability company, or its successor that operates the League and the Club will be member team prior to the Commencement Date.

“MPCA Covenants” means all covenants, directives, orders, and restrictions imposed by or obtained from the MPCA or other Governmental Authority with respect to the RAP Property.

“Party” or “Parties” shall have the meaning given such terms in the first paragraph of this Agreement.

“Permits” shall mean any permit, license or approval to be issued by any Person, including Required Environmental Permits, required for the operation of the Stadium, the Appurtenant Areas and the Stadium Site or for the installation, alteration or repair of any improvements related in any manner to the Stadium, Appurtenant Areas or the Stadium Site.

“Person” shall mean any natural person, sole proprietorship, corporation, partnership, trust, limited liability company, limited liability association, unincorporated association, joint venture, joint-stock company, Governmental Authority, or any other entity.

“Plaza Area” shall mean the plaza area to the north of the Stadium and outside of the Stadium Footprint within the Stadium Site as shown in the Project Concept Design and finally determined in the Design Documents as defined in the Development Agreement.

“Project Management Fees” shall have the meaning given such term in Section 4.1 of this Agreement.

“Project Manager” shall have the meaning given such term in Section 3.2 of this Agreement.

“Project Manager Services” shall have the meaning given such term in Section 3.2 of this Agreement.

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“Promenade” shall mean the area outside of the Stadium Footprint within the Stadium Site other than the Plaza Area as shown in the Project Concept Design and finally determined in the Design Documents as defined in the Development Agreement.

“RAP” shall mean a Response Action Plan for the RAP Property, prepared in accordance with the procedures and requirements of the MPCA, and any amendment to the RAP approved by the Parties.

“RAP Implementation Report” means any such report(s), figures, or transmittals submitted to the MPCA that document the implementation of the RAP.

“RAP Property” means the real property depicted on the attached Exhibit C.

“Redevelopment” means construction activities on the RAP Property.

“Regulated Substances” shall mean any substance, material or waste, regardless of its form or nature, defined under Environmental Laws as a “hazardous substance,” “hazardous waste,” “toxic substance,” “extremely hazardous substance,” “toxic chemical,” “toxic waste,” “solid waste,” “industrial waste,” “residual waste,” “municipal waste,” “special handling waste,” “mixed waste,” “infectious waste,” “chemotherapeutic waste,” “medical waste,” “regulated substance,” “pollutant” or “contaminant” or any other substance, material or waste, regardless of its form or nature that otherwise is regulated by Environmental Laws.

“Reimbursable Expenses” shall have the meaning given such term in Article V of this Agreement.

“Remediation Activities” shall mean compliance with Environmental Law, obtaining Required Environmental Permits, environmental due diligence, environmental investigation, preparation of a RAP, implementing and completing Response Actions required under the RAP.

“Required Environmental Permits” shall mean Permits, licenses, bonds, consents, programs, approvals or authorizations required under Environmental Laws for the construction of the Stadium and the Stadium Site, or required by the Club to conduct its operations or use the Stadium, the Appurtenant Areas and the Stadium Site or to construct, maintain, operate or use any capital improvements, alterations, or other improvements, regardless of whether such Permits are required to be or have been obtained by the City or the Club.

“Response Action” shall mean the cleanup, removal, remediation, containment, control, abatement, mitigation, monitoring of Regulated Substances in, on, at, under or emanating from the RAP Property, and institutional controls and engineering controls, all to the extent that the foregoing activities in this definition are required by the RAP.

“Stadium” shall mean the new soccer stadium meeting the requirements of the MLS to be owned by the City for the use of the Team and other users, which will be constructed on the Stadium Site.

“Stadium Footprint” shall mean the area within and including the exterior walls of the Stadium.

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“Stadium Site” shall have the meaning given such term in the recitals above.

“Team Acquired Property” shall mean any property adjacent or contiguous to the Bus Barn Property acquired by the Team for the purpose of inclusion to the Stadium Site.

“Third-Party Funding Sources” shall mean a source, including any account, program or agency, of Grant funding for Environmental Related Expenses.

“Year” shall mean each calendar year (or portion thereof) occurring during the Term, commencing on the Commencement Date.

ARTICLE II. ALLOCATION OF RESPONSIBILITIES

2.1 **Bus Barn Property.** The Metropolitan Council and City agree to allocate financial responsibility for Environmental Related Expenses incurred with respect to the Bus Barn Property as follows:

A. **City’s Responsibility.** The City shall be responsible for the first Environmental Related Expenses incurred with respect to the Bus Barn Property up to a maximum amount of \$1.5 million, with particular focus and priority on the Environmental Related Expenses incurred within the boundaries of the Bus Barn Property but outside of the Stadium footprint.

B. **Metropolitan Council’s Responsibility.** The Metropolitan Council shall be responsible for up to \$4.5 million in Environmental Related Expenses incurred with respect to the Bus Barn Property to the extent that such expenses are not covered by other sources, including (i) the City’s \$1.5 million contribution pursuant to Section 2.1 A above, and (ii) Grants obtained pursuant to Article III below. If, due to the timing of Grant reimbursements, it is necessary for the Metropolitan Council to advance any or all of its share of Environmental Related Expenses under this Section 2.1 B prior to the Grant reimbursements, the Metropolitan Council shall be reimbursed for such advances through Grant reimbursements in accordance with Article III below.

C. **Shortfall.** If, upon having obtained bids for the RAP implementation, it is evident that the aggregate amount of funds committed for Environmental Related Expenses in Section 2.1 A (\$1.5 million) and Section 2.1 B (\$4.5 million), together with Grants anticipated to be obtained pursuant to Article III below, are insufficient to cover all Environmental Related Expenses for the Bus Barn Property (a “Shortfall”), then, prior to considering an action item to bring to the Metropolitan Council for committing to make up the Shortfall, the Metropolitan Council will have design review and approval of contemplated improvements to the Bus Barn Property (other than improvements on the Stadium Site) to reduce the total Environmental Related Expenses to align with available funds. The Parties understand that the Metropolitan Council will review all Environmental Related Expenses incurred and those estimated to be incurred, including Project Management Fees, professional services, and others, totaling those expenses as it assesses the Shortfall.

2.2 **Team Acquired Property.** Neither the City nor the Metropolitan Council shall be responsible for any Environmental Related Expenses with respect to conditions on Team Acquired Property. Pursuant to Article III below, Port Authority will seek Grants to cover as much of these expenses as possible.

2.3 **Disclaimer.** The allocation of Environmental Related Expenses as set forth in Article III does not preclude any party with an interest in the Bus Barn Property from seeking contribution or **indemnification** from **Persons** not a party to this Agreement. Parties to this Agreement, however, as between each other, are limited to the Environmental Related Expenses as allocated among them by this Agreement, excluding, however, such expenses, if any, resulting from the initial introduction of Regulated Substances on the Bus Barn Property after the Effective Date.

2.4 The City will work with the Team and Port Authority to determine with whom and in what manner the contracts will be executed for RAP Implementation.

ARTICLE III. PROJECT MANAGER'S SERVICES

3.1. **General Obligations of Project Manager.** Port Authority covenants to furnish its best professional skill and judgment and to cooperate with the Parties, the engineer, the general contractor, Construction Manager, the Consultants and all others involved in the Redevelopment and **agrees** to furnish efficient business administration and management at all times in an expeditious and economical manner.

3.2. **Duties and Responsibilities.** Port Authority shall act as a "Project Manager" with respect to the Remediation Activities, and without limiting the foregoing shall perform the following services (it being acknowledged that as of the Effective Date, certain of the following services have been completed as outlined below) (collectively, the "Project Manager Services"):

(a) **Scope and Framework.** The scope of the Project Manager's Services will include but not necessarily be limited to these areas of involvement:

- RAP Development and Regulatory Approvals
- Environmental Liability Assurances
- Grant Applications
- Bid Tab Coordination with Funding Requirements
- Grant Reimbursement
- Grant Reporting

Attached as Exhibit B is a Redevelopment Site Work Framework illustrating Port Authority's Project Management Services.

(b) **EPA/MPCA Environmental Review and Approval.** The Parties acknowledge that the RAP Property requires the creation and implementation of a RAP and the completion and submission of other agreements and documentation to the MPCA. Port Authority will keep the Parties and their Consultants informed during the preparation and implementation of the

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RAP. Port Authority shall provide the Parties an opportunity to review and approve before its submissions for regulatory approval of (i) the RAP, (ii) RAP Implementation Report, (iii) MPCA Covenants imposed upon any portion of the RAP Property, and (iv) Environmental Liability Assurances, as applicable. Each Party shall within five (5) business days of request for approval of the initial drafts of, or amendments to, any of the above-referenced documents, either provide its approval, or delineate discretely each objection. Failure to object is deemed approval. Each objection shall be in writing and shall include an explanation for the basis for each objection and recommended revisions or changes. If Port Authority agrees to make such revisions or changes, the objecting Party's approval shall be deemed given. Port Authority will work with the Parties and their respective Consultants to enter into and facilitate completion of the Redevelopment of the RAP Property consistent with the RAP, the RAP Implementation Report, and otherwise conforming to MPCA requirements and objectives. The Port Authority will provide all Parties copies of all Environmental Liability Assurances obtained from the MPCA or other Governmental Authorities.

(c) **Alternative Urban Areawide Review (AUAR) and Other Environmental Project Reviews.** The Parties acknowledge that the Redevelopment will undergo environmental review such as an AUAR. The City may request that Port Authority undertake services pursuant to this Agreement to work with the Parties' respective Consultants to facilitate the AUAR or other environmental reviews. Without limiting and in addition to its rights under state law and administrative rules, the Metropolitan Council shall have the right, at its option, to participate in the AUAR or other environmental reviews related to the Redevelopment, and to review, and comment on the documents/reports resulting from the AUAR or other environmental reviews.

(d) **Environmental Related Expenses.** The Parties have entered into a Ground Lease, Use Agreement, and Development Agreement, as applicable, that in part dictate the responsibilities for existing environmental related expenses incurred by the Redevelopment. Port Authority will be engaged throughout the Redevelopment and provide monthly reports to the Parties respecting Port Authority services, the status of environmental remediation and mitigation, Environmental Related Expenses incurred or anticipated to be incurred, status as to funding sources for these expenses, and an allocation of such expenses between the Parties.

(e) **Environmental Remediation and Mitigation Invoices.** Port Authority will receive and review all invoices related to Remediation Activities submitted by any Party for payment or reimbursement. Port Authority will work with the Parties and their respective Consultants to ensure that:

(i) invoices and any other documentation with respect to Environmental Related Expenses are appropriately and reasonably completed, revised, presented, submitted, or filed in a manner to obtain as optimal as possible and reasonable under the circumstances reimbursement from Grants or from other sources; and

(ii) Environmental Related Expenses are allocated to the Parties in accordance with this Agreement.

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(f) **Grants for Environmental Related Expenses.** Either as the applicant or on behalf of one or more of the Parties, Port Authority will seek funding, payment or reimbursement (each a “Grant” and collectively “Grants”) to cover Environmental Related Expenses, including but not limited to, from the Minnesota Department of Employment and Economic Development (DEED), Minnesota Department of Commerce, Metropolitan Council Tax Base Revitalization Account (TBRA), the MPCA, and Ramsey County’s Environmental Response Fund (ERF). Port Authority’s efforts to obtain Grants for Environmental Related Expenses will include applications to maximize the total amount of such Grants. Port Authority will consult with the Parties prior to the application submission. As mutually agreed upon by the City, the Metropolitan Council and Port Authority, Port Authority will investigate research, prepare applications for, submit and apply for, and obtain Grants from other Third-Party Funding Sources not identified above for Environmental Related Expenses. Port Authority will prioritize and first endeavor to maximize Grants for Environmental Related Expenses for the Bus Barn Property over Grants for other areas of the RAP Property.

Grant reimbursements with respect Bus Barn Property shall be applied to Environmental Related Expenses in the following order:

(1) First to reimburse the City for all amounts incurred in accordance with Section 2.1 (A).

(2) Second, to reduce the Metropolitan Council’s responsibility for payment of Environmental Related Expenses under Section 2.1 (B), whether:

(i) as payment of Environmental Related Expenses before any or all of the Metropolitan Council’s share of Environmental Related Expenses are paid; or

(ii) as reimbursement to the Metropolitan Council for Environmental Related Expenses advanced by the Metropolitan Council.

(g) **Third-Party Funding Sources for the Redevelopment.** Separate and apart from Environmental Related Expenses and as mutually agreed upon by the City and Port Authority, Port Authority will investigate, research, prepare, submit or apply, obtain, and facilitate funding from other Third-Party Sources for the Redevelopment.

(h) **Party Cooperation.** The Parties agree to direct their respective Consultants to provide necessary reliance letters as needed or required. In addition, civil, environmental, and other professional services will be necessary in order for the Redevelopment to be undertaken and completed and, in addition, for Port Authority to fulfill this Agreement. The City and the Team represent that skilled and experienced civil engineering, environmental engineering, environmental professionals, and legal counsel with environmental law knowledge and experience have been or will be retained in order to undertake and complete the Redevelopment, and agree that these Consultants will cooperate with and work with Port Authority. To the extent reasonably necessary, upon request as soon as practical and with the understanding that often

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time is of the essence, the Parties agree to cooperate with Port Authority and provide information, data, documentation, signature or certifications from the Party's employees or agents or Consultants, completion of forms, direction to the Party's Consultants or agents to investigate, analyze, or assemble, and any other actions reasonably requested by Port Authority.

3.3. Port Authority Services Pursuant to Duties and Responsibilities. In addition to the duties and responsibilities set forth in and in furtherance of this Agreement, Port Authority will:

(a) Attend meetings as needed or as required with the Construction Manager and representatives of the civil and environmental engineers, and such other Consultants, as appropriate or at the discretion of the City, and provide reports to the City and Metropolitan Council upon request;

(b) Coordinate, subject to approval of the City, lines of authority and division of responsibility among City, the Team, the General Contractor, and other Consultants.

(c) Monitor, oversee, or ensure the completion, submission, filing, or recording of reports, forms, real estate covenants or restrictions required by Third-Party Funding Sources, including but not limited to coordination, oversight, and completion of ongoing Grant reporting requirements.

3.4. Approvals. Port Authority has authority to make decisions and approvals related to Port Authority's duties and responsibility to pursue, secure, and utilize Grants, subject to the Parties' review and approval rights with respect to Grant applications.

ARTICLE IV. PAYMENT FOR SERVICES

4.1. Project Management Fee. The Port Authority's project management fees for all of its services rendered under this Agreement shall be paid as a part of Environmental Related Expenses as allocated in Section 2.1 above. Such fees shall be payable each month at the following rates (the "Project Management Fees"):

President:	\$200.00/hour
Senior Vice President of Real Estate and Development	\$175.00/hour
Vice Presidents of Redevelopment	\$175.00/hour
In-house Legal Counsel	\$175.00/hour
Project Assistant/Administrative	\$175.00/hour

Port Authority will submit invoices and any applicable supporting documentation on a periodic basis. Payment will be due within thirty (30) days from the invoice date. Interest at the rate of 1.5% per month will accrue on any outstanding principal balance on invoices remaining unpaid commencing thirty (30) days from the date of the invoice.

ARTICLE V. EXPENSES REIMBURSEMENT

Port Authority is authorized to retain outside professional services not to exceed \$100,000 unless approved in writing by the City. Port Authority shall also be reimbursed for its reasonable expenses incurred in connection with its Project Manager Services and duties hereunder (including personnel costs, copy costs, mileage and parking, etc. but excluding internal administrative costs). The City shall be solely responsible for reimbursement of all such expenses (the “Reimbursable Expenses”). For the avoidance of doubt, Port Authority acknowledges that Reimbursable Expenses shall not include general administrative expenses incurred hereunder.

ARTICLE VI. TERMINATION OR SUSPENSION OF PERFORMANCE

6.1. **Termination of Port Authority.** City shall have the right at any time and for any reason or for no reason, with or without cause, in the sole and absolute discretion of City, to terminate Port Authority from its role as Project Manager hereunder by written notice to Port Authority (a “Termination Notice”). If the City terminates Port Authority, the City, at no expense to the Metropolitan Council, will assume and perform the Project Manager Services and all other duties and responsibilities that Port Authority was to perform under this Agreement prior to and following such termination.

(a) In the event City terminates Port Authority without cause, then Port Authority shall have the right to immediately cease any of its duties and responsibilities under this Agreement and the City shall pay accrued Project Management Fees and all Reimbursable Expenses incurred by Port Authority under this Agreement through the date of the Termination.

(b) In the event City terminates Port Authority with cause, then the City shall pay all Reimbursable Expenses incurred by Port Authority under this Agreement through the date of the Termination, but Port Authority shall forfeit accrued Project Management Fees.

(c) The parties acknowledge that Port Authority shall not have the right to dispute the effectiveness of a Termination Notice irrespective of whether such Termination Notice states that such termination is based upon cause, it being acknowledged and agreed that if any Termination Notice based on cause is given, and Port Authority disputes whether or not cause exists, then the termination will nonetheless be effective; however, Port Authority shall retain the right to submit to dispute resolution the determination as to whether cause exists. If Port Authority is successful, the termination shall remain effective, however, Port Authority shall retain its right hereunder to receive Project Management Fees and Reimbursable Expenses that would otherwise have been payable to Port Authority.

6.2. **Conduct upon Termination.** Upon any termination of Port Authority in accordance with the provisions of this Article VI, Port Authority shall cancel, or, if so directed by the City, transfer to the City, all commitments and agreements relating to the Redevelopment, to the extent same are cancelable or transferable by Port Authority.

6.3. **Suspension of Performance.** The City may at any time, and for any reason, direct Port Authority to stop work under this Agreement for a period of time. Such direction shall be in writing **and** shall specify the period during which work is to be stopped. Port Authority shall resume work upon the date specified in such direction, or upon such other date as the City may thereafter specify in writing upon reasonable notice to Port Authority.

6.4 **Termination of this Agreement.** With the Metropolitan Council's prior written consent, the City may **terminate** this Agreement in its entirety; provided, if the Ground Lease is terminated as a result of one or more Contingencies (as defined in the Ground Lease) not being satisfied or waived, this Agreement shall automatically terminate and then no Party shall have any liability under this Agreement.

ARTICLE VII. OWNERSHIP OF DOCUMENTS AND/OR MODELS

All plans, drawings, tracings, specifications, programs, reports, models and other material prepared and furnished under or for the Redevelopment shall be the property of the City upon their delivery to the City, or upon termination for any reason of the services of Port Authority. Such documents shall be delivered to the City promptly upon demand and thereafter may be used by the City in whole or in part, or in modified form, for those purposes the City may deem advisable without further employment of, or payment of additional compensation to, Port Authority. Port Authority or the City (as applicable) will provide the Metropolitan Council draft and final copies of the foregoing documents as the same are produced, and the Metropolitan Council shall have a non-exclusive, perpetual license to use the same without payment of compensation to Port Authority or the City.

ARTICLE VIII. AUTHORITY OF THE CITY

The services to be performed by Port Authority shall be subject to the general supervision, direction, control and approval of the City or its authorized representative, whose decision shall be final and binding upon Port Authority as to all matters arising in connection with or relating to this Agreement. The City shall determine all matters relative to the fulfillment of this Agreement on the part of Port Authority and such determination shall be final and binding on Port Authority.

ARTICLE IX. ASSIGNMENT BY PROJECT MANAGER

Port Authority shall not assign, transfer, convey, pledge or otherwise dispose of its interest, or any part thereof, in this Agreement without the prior written consent of the City and Metropolitan Council, which may be withheld for any reason or no reason in the City's and Metropolitan Council's sole discretion.

ARTICLE X. MAINTENANCE, AUDIT, AND EXAMINATION OF ACCOUNTS

Port Authority, until three (3) years after completion of all of its services hereunder or termination of by the City, shall maintain, and require each of its consultants to maintain, complete and correct books and records relating to all aspects of Port Authority's obligations hereunder, including, without limitation, accurate cost and accounting records specifically identifying such obligations and the costs incurred by Port Authority. Port Authority shall make such books and records available to the City, Metropolitan Council, or their authorized representatives for review and audit at all such reasonable times as the City or Metropolitan Council from time to time requires.

ARTICLE XI. ACCEPTANCE OF FINAL PAYMENT

The acceptance by Port Authority of final payment under this Agreement, or any final payment due on termination of this Agreement, shall constitute a full and complete release of the City from any and all claims, demands and causes of action whatsoever which Port Authority, its successors or assigns have or may have against the City under the provisions of this Agreement. Port Authority shall have no claims against the Metropolitan Council for payment of the Project Management fees or reimbursement of Reimbursable Expenses under this Agreement.

ARTICLE XII. WARRANTIES AND REPRESENTATIONS

Port Authority covenants, warrants and represents that:

(a) Recognizing that timely performance hereunder and completion of the Redevelopment is of the utmost importance, Port Authority will perform all of its obligations hereunder in prompt and workmanlike manner in accordance with this Agreement.

(b) The personnel assigned and consultants employed or used by Port Authority in the performance of its obligations hereunder shall be of sufficient number and quality in all respects for such assignment, employment and use. In addition, Port Authority shall select an individual to act as site manager and construction leader and coordinator, which individual shall be subject to the City's prior written approval. With the prior written consent of the City, Port Authority may substitute or replace the personal services of one or more individuals in the capacities listed above.

(c) Port Authority possesses the necessary personnel, skills, experience, and technical and financial resources to undertake the performance of the services and obligations of Port Authority required herein.

ARTICLE XIII. NOTICES

All notices, requests, consents or other communications required under this Agreement shall be in writing and shall be deemed to have been properly given if served personally or if sent by United States registered or certified mail or overnight delivery service to the Parties as follows (or at such other address as a Party may from time to time designate by notice given pursuant to this Section):

To the Metropolitan
Counsel: Metropolitan Council
390 Robert Street North
St. Paul, MN 55101
Attn: Regional Administrator

with copies to: Metropolitan Council
560 6th Avenue North
Minneapolis, MN 55411
Attn: General Transit Manager

Metro Transit
560 6th Avenue North
Minneapolis, MN 55411
Attn: Director, Engineering and Facilities

Best & Flanagan LLP
60 South Sixth Street, Suite 2700
Minneapolis, MN 55402
Attn: Barbara M. Ross

To the Team: c/o MUSC Holdings, LLC
4050 Olson Memorial Highway, Suite 295
Golden Valley, MN 55422
Attn.: William W. McGuire, Managing Member

with a copy to: Kaplan, Strangis and Kaplan, P.A.
90 South Seventh Street, Suite 5500
Minneapolis, MN 55402
Attn.: Ralph Strangis

To the City: Director of Planning and Economic Development
400 City Hall and Courthouse
15 Kellogg Boulevard West
Saint Paul, MN 55102
Attn: Jonathan Sage-Martinson

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with a copy to: Saint Paul City Attorney
400 City Hall and Courthouse
15 Kellogg Boulevard West
Saint Paul, MN 55102
Attn: Deputy City Attorney

and a copy to: City of Saint Paul
700 City Hall and Courthouse
15 Kellogg Boulevard West
Saint Paul, MN 55012
Attn.: Finance Director

To Port Authority: Saint Paul Port Authority
800 St. Peter Street, Suite 850
Saint Paul, MN 55102
Attn: President

with a copy to: Saint Paul Port Authority
800 St. Peter Street, Suite 850
Saint Paul, MN 55102
Attn: General Counsel

Each notice shall be deemed given and received on the date delivered if served personally or by overnight delivery service or, if sent by United States registered or certified mail, then one (1) Business Day after its delivery to the address of the respective Party, as provided in this Article, except that with respect to the notices pertaining to matters that are to be accomplished within less than three (3) Business Days (e.g., requests for consent when the Person whose consent is sought has one (1) Business Day to respond in the granting or denying of such consent), notice shall be deemed given simultaneously with its delivery. Notices sent by a Party's counsel shall be deemed notices sent by such Party.

ARTICLE XIV. CAPTIONS OR HEADNOTES

The captions or headnotes on articles or paragraphs of this Agreement are intended for convenience and for reference purposes only and in no way define, limit or describe the scope or intent of this Agreement nor in any way affect this Agreement.

ARTICLE XV. SEVERABILITY OF PROVISIONS

If this Agreement contains any unlawful provisions not an essential part of the Agreement and which appear not to have been a controlling or material inducement to the making thereof, the same shall be deemed to be of no effect, and shall upon the application of either party be stricken from the Agreement without affecting the binding force of the Agreement as it shall remain after omitting such provisions.

ARTICLE XVI. ENTIRE AGREEMENT

Other than (i) the Ground Lease, to which Port Authority and Team are not a party, and (ii) the Use Agreement and Development Agreement, which Metropolitan Council is not a party, this Agreement constitutes the entire agreement between the Parties as of the Effective Date and incorporates all prior understandings in connection with the subject matter hereof. This Agreement may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which such change, waiver, discharge or termination is sought to be enforced.

ARTICLE XVII. CHOICE OF LAW

This Agreement shall be construed and enforced in accordance with the laws of the State of Minnesota. The Parties agree that any all disputes shall be venued in and consent to personal jurisdiction in Ramsey County, State of Minnesota.

ARTICLE XVIII. INDEPENDENT CONTRACTOR

It is expressly understood and agreed by the parties hereto that Port Authority, in performing its obligations under this Agreement, shall be deemed an independent contractor and not an agent or employee of the City.

[Signature Blocks]

Attachment E

EXHIBIT A

Bus Barn Property

Attachment E

EXHIBIT B

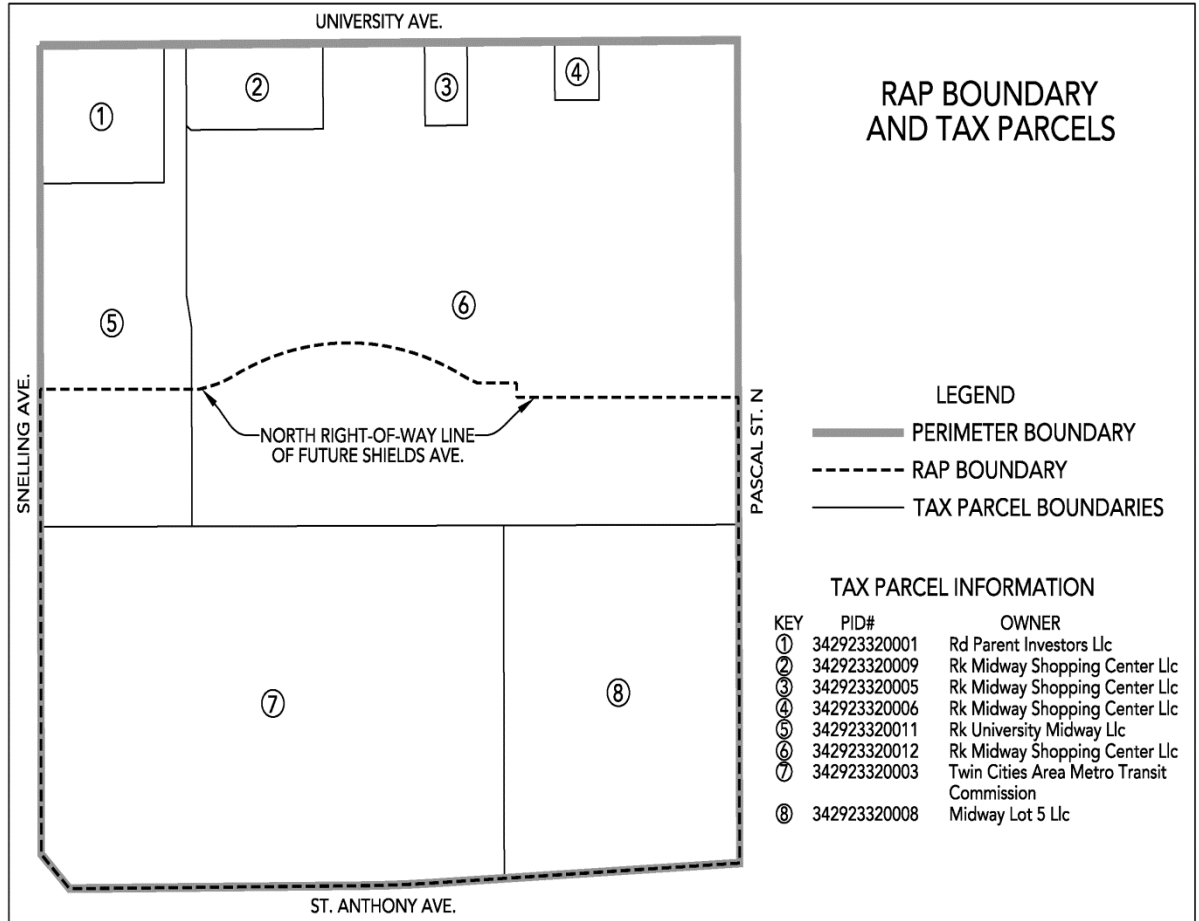
Redevelopment Site Work Framework

[insert]

Attachment E

Exhibit C

RAP Property Boundary



Attachment E

EXHIBIT D

Midway Development Site