

PROJECT: **GOLD LINE BUS RAPID TRANSIT PROJECT**
MASTER AGREEMENT: **Master Funding Agreement #19I056-E – City of Saint Paul**
PARTIES:

- **Metropolitan Council (“Council”)**
- **City of Saint Paul, Minnesota (“City”)**

SUBORDINATE FUNDING AGREEMENT #5 TO MFA
City of Saint Paul – RE: Private Sewer Services Replacement - Design

This Subordinate Funding Agreement (“SFA”) with the City of Saint Paul is entered into 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 7th day of July, 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 the City, hereby referred to as “Local Work,” for which the City 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 \$20,500, 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 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. City 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 the City include project management; development of 100% construction plans and QC/QA; development of construction specifications and QC/QA; development of 100% construction cost estimates, including a statement of estimated quantities; and sewer televising coordination, for the replacement of private sewer services as requested by

individual property owners. The City has a process in place for recovering these expenses from the interested property owners. The location of the Local Work is 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, the City 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 the City notifies the Council it does not intend to enter into an SFA to construct the Local Work along with the construction of the Project, the City will be responsible for additional costs incurred by the removal of the Local Work from the Project's design plans and construction bid documents. The Parties will enter into an SFA for the City 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 the City 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 the City, 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 the City 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. The City 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.
13. **Counterparts.** The parties may sign this Agreement in counterparts, each of which constitutes an original, but all of which together constitute one instrument.
14. **Electronic Signatures.** The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties further agree that any document (including this Agreement and any attachments or exhibits to this Agreement) containing, or to which there is affixed, an electronic signature shall be deemed (i) to be "written" or "in writing," (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. For purposes hereof, "electronic signature" also means a manually signed original signature that is then transmitted by any electronic means, including without limitation a faxed version of an original signature or an electronically scanned and transmitted version (e.g., via PDF) of an original signature. Any party's failure to produce the original signature of any electronically transmitted signature shall not affect the enforceability of this Agreement.

**[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.

CITY OF SAINT PAUL

METROPOLITAN COUNCIL

By: _____
Mayor

By: _____

Date: _____

Its: _____

Date: _____

By: _____
Director of Public Works / City Engineer

Date: _____

By: _____
City Attorney's Office

Date: _____

By: _____
Office of Financial Services

Date: _____

LIST OF EXHIBITS

Exhibit	Description
A	Budget and Payment Schedule for Local Work
B	Location of Work

EXHIBIT A

Budget for Local Work

Item	Cost
Design Cost	\$20,500
Maximum Amount of Authorized Funding	\$20,500

Payment Schedule for Local Work

Payment #	Payable on or before:	Amount
1	35 Days after SFA Execution	\$10,250
2	35 Days after Payment 1 Due Date	\$10,250

EXHIBIT B

Location of Work