

FIRST AMENDMENT TO JOINT POWERS AGREEMENT
Central Station Block, Downtown Saint Paul

This First Amendment to Joint Powers Agreement (“**First Amendment**”), dated as of the date that the last party signs, is made by and among the Metropolitan Council, a public corporation and political subdivision of the State of Minnesota (“**Council**”), the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota, a public body corporate and politic organized and existing under the laws of the State of Minnesota (“**HRA**”), and the City of Saint Paul, a Minnesota municipal corporation and home rule charter city (“**City**”) (collectively, the “**Parties**,” and each individually a “**Party**”) for the redevelopment (“**Joint Redevelopment**”) of Council-owned and HRA-owned real property in the City of Saint Paul bounded by 5th Street, Minnesota Street, 4th Street and Cedar Street (“**Central Station Block**” or “**CSB**”).

RECITALS

WHEREAS, the Parties executed a Joint Powers Agreement (“**Agreement**”) with an effective date of September 18, 2023, to formally commit to a process for the Joint Redevelopment of the Central Station Block and for the performance of services or functions to effectuate the Joint Redevelopment.

WHEREAS, the Hellervik Parcel, as defined in the Agreement, was acquired pursuant to Minnesota Statutes chapter 117, which governs the exercise of the power of eminent domain through condemnation proceedings for the Council’s METRO Green Line Project.

WHEREAS, Minnesota Statutes section 117.226 provides a former property owner of condemned property a right of first refusal in the sale of former condemned property in certain limited circumstances where the condemned property “has not been used and is no longer needed for a public purpose”.

WHEREAS, the Council has informed the City and HRA that the Statutory Right of First Refusal does not apply to the Hellervik Parcel for various reasons including because the Council has used it for the METRO Green Line Project to construct the Central Station Block light rail tracks and platforms and it is currently bifurcated by those tracks and platforms.

WHEREAS, the Parties desire to amend Sections 5, 6, and 16(a) of the Agreement so that the Agreement terms comport with the inapplicability of the Statutory Right of First Refusal to the Hellervik Parcel.

NOW THEREFORE, in consideration of the foregoing Recitals and the covenants and obligations set forth herein, the Parties agree as follows:

AGREEMENT

1) Amendment of Section 5. Section 5 of the Agreement is hereby deleted in its entirety and replaced with the following new Section 5:

5) Hellervik Parcel. The Hellervik Parcel was acquired through the condemnation process, which is governed by Minnesota Statutes chapter 117. Minnesota Statutes, section 117.226 provides a former owner of condemned property a statutory right of first refusal (“**Statutory Right of First Refusal**”) in limited circumstances. The Council has determined that the Statutory Right of First Refusal is inapplicable to the Hellervik Parcel. Neither the City nor the HRA shall have any obligations to any party with respect to any claim that the Hellervik Parcel is encumbered by a Statutory Right of First Refusal. The Council hereby agrees that it will defend, indemnify, and hold harmless the City and HRA from and against any and all claims, demands, causes of action, liabilities, and costs that arise out of or are in any way related to the Hellervik Parcel or any claim of a Statutory Right of First Refusal in the Hellervik Parcel. The foregoing indemnification will survive the termination or expiration of the Agreement, as amended hereby.

2) Amendment of Section 6. Section 6 of the Agreement is hereby deleted in its entirety and replaced with the following new Section 6:

6) Green Line LRT Project Funding Sources Approval. The Council Development Property is encumbered by interests of the FTA, MMB, and Hennepin County (CTIB). Prior to the issuance of the RFP and the procurement process and negotiations identified in Sections 8 and 9, the Council will make reasonable efforts to obtain all necessary approvals from MMB, the FTA, and Hennepin County for the sale of the Council Development Parcel. Such approvals shall, to the extent possible, include air rights for an owner/developer to develop over the Council Transit Parcel beginning at a height reasonably determined by the Council. The Council will seek FTA concurrence as necessary to support redevelopment of the Combined Development Parcel. The Council’s failure to obtain, after reasonable efforts, any or all of these approvals shall not constitute a breach of this Agreement. The Council shall be under no obligation to proceed with the sale of the Council Development Parcel if the aggregate reimbursement amounts payable by the Council under funding covenants related to the FTA, MMB, Hennepin County, and transactional costs and reimbursable expenses associated with the sale of the Council Development Parcel exceed the Council’s proportionate share of the Purchase Price (as defined in Section 8), calculated pursuant to Section 4, offered for the Council Development Parcel (“**Council Contingency**”). The Council Contingency shall be an express condition of closing, during the period of time stated below, that shall be included in any agreement entered into with a tentative developer selected pursuant to Section 8. In exercising the Council Contingency, the Council will elect, by written notice given to the City and HRA, no later than 30 days after the date that Council and HRA

governing bodies' selection of a tentative developer for the Joint Redevelopment as provided in Section 8, whether it will proceed with closing on the Combined Development Parcel sale to such tentative developer. If no notice is given within such 30-day period, then the Council shall be deemed to have waived its Council Contingency. Following the selection of the tentative developer, the tentative developer's proposed RFP Purchase Price (as the same may be negotiated by the Council and the HRA) cannot be modified, changed, or altered without the Council's approval.

3) Amendment of Section 16(a). Section 16(a) of the Agreement is hereby deleted in its entirety and replaced with the following new Section 16(a):

- a. Termination for failure to agree. If the Parties, each acting reasonably and in good faith, fail to reach agreement on a material issue in a manner required by this Agreement or if either is unable to obtain any state, county or federal approvals required by this Agreement, then no breach of this Agreement shall exist, but, in such case, any Party may terminate this Agreement on 30 days' advance written notice given to the other Parties. Upon such a termination pursuant to this Section, each Party shall be responsible for its own obligations and costs incurred in connection with this Agreement or its ownership of its property in the CSB.

4) Miscellaneous. The Agreement remains in full force and is unmodified except as expressly provided herein. This First Amendment may be executed in any number of counterparts. All such counterparts will be deemed to be originals and together constitute one and the same instrument. The Parties agree that the electronic signature of a Party to this First Amendment (including DocuSign, Adobe Sign, and other such formats) shall be as valid as an original signature of such Party and shall be effective to bind such Party.

IN WITNESS WHEREOF, the Council, the HRA, and the City have caused this First Amendment to be executed by their duly authorized representatives. This First Amendment is effective when it has been signed by all Parties' duly authorized representatives.

METROPOLITAN COUNCIL SIGNATURE PAGE

METROPOLITAN COUNCIL

By: _____
Its: Interim Regional Administrator

Date:

**HOUSING AND REDEVELOPMENT AUTHORITY
OF THE CITY OF SAINT PAUL, MINNESOTA
SIGNATURE PAGE**

**HOUSING AND REDEVELOPMENT
AUTHORITY OF THE
CITY OF SAINT PAUL, MINNESOTA**

By: _____
Executive Director

Date: _____, 2023

Approved as to form:

Assistant City Attorney

**CITY OF SAINT PAUL
SIGNATURE PAGE**

CITY OF SAINT PAUL,

By: _____

Its: Director of Planning and Economic
Development

Date: _____, 2023

Approved as to form

Assistant City Attorney