



Meeting date: September 8, 2010

Metropolitan Council: September 8, 2010

**ADVISORY INFORMATION**

<b>Date:</b>	September 7, 2010
<b>Subject:</b>	Agreement for the Central Corridor LRT Project through the University of Minnesota
<b>District(s), Member(s):</b>	All
<b>Policy/Legal Reference:</b>	Council Resolution 2008-176
<b>Staff</b>	Mark Fuhrmann, Program Director, 651-602-1942
<b>Prepared/Presented:</b>	Rich Rovang, CCLRT Project Director, 651-602-1942
<b>Division/Department:</b>	Metro Transit

**Proposed Action**

That the Metropolitan Council authorize its Chair to finalize and execute the Agreement for the Central Corridor Light Rail Transit Project (CCLRT) among the Council, the Regents of the University of Minnesota, the city of Minneapolis, and Hennepin County, which establishes requirements for constructing and operating the Central Corridor LRT Project through the University of Minnesota (U of M), as described in the presentation.

**Background**

The Metropolitan Council adopted Resolution 2008-176 on June 25, 2008, approving a Memorandum of Understanding between the Council, the Regents of the University of Minnesota, the city of Minneapolis, and Hennepin County, also known as MOU #1. In addition to other requirements, MOU #1 obligated the parties to work cooperatively to resolve outstanding mitigation issues and develop a second MOU (the Agreement) defining specific design, construction, and operation issues related to the CCLRT Project. The Agreement is the resulting outcome of negotiations that have taken place between the parties following Council execution of MOU #1.

This Agreement includes a Construction Management Program stipulating mitigation requirements during Project construction, a temporary easement allowing project construction to proceed, and a permanent easement conveying to the Council rights to install and operate CCLRT Project infrastructure on property owned by the U of M.

The MOU specifies commitments in the following categories (see attached summary of commitments):

- Mitigation measures
- Performance standards (EMI and vibration)
- Pre-revenue service testing
- Testing during operations
- Monitoring during operations
- Design authority and review
- Construction mitigation including limits on noise, dust, and vibration.
- Reimbursement for U of M expenses
- Easements
- Remedies

- Process for dispute resolution
- Provision for dismissal of U of M lawsuit

## **Rationale**

Development of a comprehensive mitigation Agreement between the parties was a requirement of MOU #1, and is a requirement for receipt of a Full Funding Grant Agreement from the FTA. In addition, permanent and temporary easements for U of M property are necessary to construct and operate the CCLRT Project.

## **Funding**

Funding to implement the obligations of the Agreement is included within the Project's overall budget of \$956.9 million. No adjustments to Project budget will be required as part of fulfilling the obligations of the Agreement.

## **Known Support / Opposition**

There is no known opposition to execution of the Agreement. The Agreement will be acted upon by the Regents of the University of Minnesota on September 8. The Agreement will go before the City of Minneapolis and Hennepin County for approval within the next two weeks.

## **Executive Summary Central Corridor Agreement Metropolitan Council and University of Minnesota**

The Metropolitan Council's agreement with the University of Minnesota protects sensitive University research facilities located along Washington Avenue, while keeping the \$957 million Central Corridor light rail transit (LRT) project on schedule and within budget.

The agreement delineates the mitigation measures that will be undertaken by the Council to protect U research labs from vibration and electromagnetic interference (EMI) caused by trains. As part of the agreement, the University agrees to grant the easements needed for the construction and operation of the LRT line, and to withdraw its lawsuit against the project.

Here is a summary of the agreement's key provisions:

### **Mitigation Measures)**

**Vibration:** Floating slabs will be installed under approximately 1,450 feet of both tracks at various locations along Washington Avenue, between Pleasant and Harvard Streets, to absorb train-caused ground-borne vibration that might adversely affect University research labs.

**EMI:** Dual-split power supply will be installed beneath about 3,150 feet of tracks along Washington Avenue, between the east end of the Washington Avenue bridge and Ontario Street, to cancel out train-caused EMI that might adversely affect University labs.

### **Performance Standards**

**Vibration:** The agreement specifies vibration limits at or below the present levels along Washington Avenue on the East Bank campus that will be adhered to during LRT operations.

**EMI:** The agreement specifies allowable EMI levels that will be permitted within University research laboratories along Washington Avenue on the East Bank campus.

### **Pre-Revenue Service Testing**

Prior to revenue service, the Council will perform tests according to a protocol specified in the agreement to verify that the vibration and EMI mitigation systems will comply with the agreed-upon performance standards. At least 90 days before the planned commencement of service, the Council will certify that the tests were completed and that the test data show the mitigation systems will comply. The University will have 20 business days to review and indicate its acceptance of the data. The agreement provides a procedure for resolving any technical disputes over the data.

### **Testing**

The Council will develop and implement systems for periodic testing during LRT operations for both vibration and EMI to verify the continuing effectiveness of the mitigation systems.

### **Monitoring**

The University will develop, operate and maintain its own systems for on-going monitoring of vibration and EMI to provide its researchers assurance that their research is not being impacted by LRT operations and to identify potential concerns in a timely fashion.

### **Design Authority and Review**

The Council will retain engineering and design control and approval over project elements specific to the light rail line. The University will have final approval of University-funded enhancements to the project, as well as aesthetic features of the transit-pedestrian mall.

### **Construction Management Plan**

The agreement establishes a framework for construction activities, including limits for noise, dust and vibration during construction. It also lays out procedures for how contractor construction schedules and schedule changes will be handled between the Council and the University.

### **Reimbursement for U Expenses**

The University may designate a project manager and technical staff to work with the Council and monitor project activity. The Council will reimburse the University for documented salary and benefit costs, without markup, for all project manager and staff time – to a project maximum of \$400,000.

### **Easements**

On April 21, 2010, the University granted the Council a temporary easement for the construction of the Advance Traffic Improvements in the campus area. Upon the signing of this agreement, the University will grant a temporary easement for LRT construction through campus. The University will grant a permanent easement upon the execution of this agreement, but it will not become effective until pre-revenue service testing is completed and the line is certified as compliant with the performance standards for vibration and EMI.

### **Remedies**

The agreement establishes a process to remedy harm to University research or equipment during LRT operations under three circumstances:

1. If there is no exceedance of performance standards but quantifiable harm from vibration and/or EMI during construction or the first two years of revenue service, the Council will pay for damage, repair or replacement of University equipment.
2. If there is an exceedance of performance standards and quantifiable harm from dust, noise, vibration and/or EMI, the Council will pay the first \$200,000 of capital cost with the University sharing equally in any capital cost in excess of \$200,000.
3. If there is an exceedance of performance standards with "intangible harm to the research environment, but no quantifiable harm," the Council and the University each will pay one-half of the capital cost to bring the line into compliance.

### **Dispute Resolution**

The agreement sets forth a dispute resolution process, starting with staff discussions leading up the chain of command, followed by non-binding mediation with a neutral third party, binding arbitration and finally legal action.

### **Dismissal of Lawsuit**

Upon the full execution of this agreement, the University and the Council will file a stipulation seeking dismissal of the University's 2009 lawsuit against the project.