Title VI
Compliance and Implementation Plan 2011

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Title VI Nondiscrimination Statement

Metropolitan Council

Metropolitan Councils Title VI

Non-discrimination Policy Statement

The Metropolitan Council under Title VI of the Civil Rights Act of 1964; 49 CFR, part 21 related statues and regulations ensures that no person shall be excluded from participation in or be denied the benefits of, or be subjected to discrimination under any program or activity it administers that receives federal financial assistance on the grounds of race, color, sex, or national origin.

Wes Kooistra, Acting Metropolitan Council Regional Administrator

03/14/2011

Date signed

www.metrocouncil.org

390 Robert Street North • St. Paul, MN 55101-1805 • (651) 602-1000 • Fax (651) 602-1550 • TTY (651) 291-0904

An Equal Opportunity Employer

Introduction

Metropolitan Council's Title VI Program

The Metropolitan Council Title VI Program is to ensure no person in the seven-county region on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. The Council will ensure all citizens are aware of the provisions of Title VI and the responsibilities associated the Title VI of the Civil Rights Act of 1964. We are readily available to provide you with high quality technical assistance, resources, guidance and any other information in regard to Title VI.

What is Title VI?

Title VI of the 1964 Civil Rights Act says,"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. §2000d. In addition, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 1994 provides:
"Each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."

The Metropolitan Council will not tolerate discrimination by its employees or by those who receive federal funds from the Council. The Council prohibits all discriminatory practices that may result in an individual:

- Being denied any service, financial aid or benefit provided under a program to which he or she may be otherwise entitled;
- Being held to different standards or requirements for participation;
- Experiencing segregation or separate treatment in any part of a program;
- Being subject to distinctions in quality, quantity or manner in which a benefit is provided;
- Experiencing discrimination in any activities conducted in a Metropolitan Council facility built in whole or part with Federal funds.

Further, the Council will:

- Avoid or reduce harmful human health and environmental effects on minority and low-income populations;

- Ensure full and fair participation by all communities, including low-income and minority populations in the transportation decision-making process;
- Prevent the denial of reduction in or significant delay in the receipt of benefits by minority and low-income populations.

If you believe that you have been discriminated against because of your race, ethnicity, color, national origin, sex, age, disability or socioeconomic status, you may file a written

complaint with the Metropolitan Council's Office of Diversity and Equal Opportunity at this address:

Director of Equal Opportunity
Metropolitan Council
390 North Robert Street
St. Paul, MN 55101
Or you can contact us by phone at 651-602-1000 or by e-mail at data.center@metc.state.mn.us.

Authorities

a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d).
b. Federal Transit Laws, as amended (49 U.S.C. Chapter 53 et seq.).
c. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.).
d. Department of Justice regulation, 28 CFR part 42, Subpart F, "Coordination of Enforcement of Nondiscrimination in Federally-Assisted Programs" (December 1, 1976, unless otherwise noted).
e. DOT regulation, 49 CFR part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964" (June 18, 1970, unless otherwise noted).
f. Joint FTA/Federal Highway Administration (FHWA) regulation, 23 CFR part 771, "Environmental Impact and Related Procedures" (August 28, 1987).
g. Joint FTA/FHWA regulation, 23 CFR part 450 and 49 CFR part 613, "Planning Assistance and Standards," (October 28, 1993, unless otherwise noted).
h. DOT Order 5610.2, "U.S. DOT Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations," (April 15, 1997).
i. DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient Persons, (December 14, 2005).
j. Section 12 of FTA's Master Agreement, FTA MA 13 (October 1, 2006).

Assurances

Requirement to provide an Annual Title VI CERTIFICATION AND Assurance.

Applicants shall submit their annual Title VI assurance as part of their annual Certification and Assurance submission to FTA. Recipients shall collect Title VI assurances from subrecipients prior to passing through FTA funds. (These Title VI assurances must be submitted as part of a standard list of assurances provided by subrecipients to their direct recipient(s)).

The Metropolitan Council submitted the Annual certifications and assurances November 2010. Documentation can be found in the TEAM system.

The Direct Pass-through Agreement can be found at Appendix 5.

The language for contract performance can be found at Appendix 6.

Definitions

a. Adverse Effect: the totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness, or death; air, noise, and water pollution and soil contamination; destruction or disruption of man-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or non-profit organizations; increased traffic congestion, isolation, exclusion or separation of individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of benefits of DOT programs, policies, or activities.
b. Affirmative Action: a good faith effort to eliminate past and present discrimination in all federally assisted programs, and to ensure future nondiscriminatory practices.
c. Applicant: an eligible entity or organization that submits an application for financial assistance under any FTA program.
d. Citizen Participation: an open process in which the rights of the community to be informed, to provide comments to the government and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals.
e. Compliance: a satisfactory condition existing when a recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good faith effort toward achieving this end has been made.
f. Deficient: a condition where, after a review of a recipient's or subrecipient's practices, and barring an adequate justification from the recipient or subrecipient, FTA determines that the entity has not followed specific provisions of the FTA Circular 4702.1A's required guidance and procedures.
g. Discrimination: any act or inaction, whether intentional or unintentional, in any program or activity of a Federal aid recipient, subrecipient, or contractor that results in disparate treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, or national origin.
h. Disparate Impact: facially neutral policies or practices that have the effect of disproportionately excluding or adversely affecting members of a group protected under Title VI, and the recipient's policy or practice lacks a substantial legitimate justification.
i. Disparate Treatment: actions that result in circumstances where similarly situated persons are treated differently (i.e., less favorably) than others because of their race, color, or national origin.
j. Disproportionately High and Adverse Effect on Minority and Low-income Populations: an adverse effect that:
   (1) is predominately borne by a minority population and/or a low-income population, or
   (2) Will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.

k. Environmental Justice Activity: an action taken by DOT, FTA, or a recipient or subrecipient of FTA funding to identify and address adverse and disproportionate effects of its policies, programs, or activities on minority and/or low-income populations, consistent with Executive Order 12898 and the DOT Order 5610.2 on Environmental Justice.

l. Fixed Guideway: a public transportation facility using and occupying a separate right-of-way or rail for the exclusive use of public transportation and other high occupancy vehicles, or using a fixed catenary system and a right-of-way usable by other forms of transportation.

m. Federal financial assistance:
   (1) grants and loans of Federal funds;
   (2) the grant or donation of Federal property and interests in property;
   (3) the detail of Federal personnel;
   (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and
   (5) Any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of assistance.

n. FTA Activity: any program of assistance authorized by the Federal Transit Laws at 49 U.S.C. Chapter 53 or the Federal Highway Laws at Title 23 United States Code that are administered by FTA.

o. Grantee means a direct or indirect recipient of Federal financial assistance from FTA.

p. Limited English Proficient (LEP) Persons: persons for whom English is not their primary language and who have a limited ability to speak, understand, read, or write English. It includes people who reported to the U.S. Census that they do not speak English well or do not speak English at all.

q. Low-Income: a person whose median household income is at or below the Department of Health and Human Services' poverty guidelines.

r. Low-Income Population: any readily identifiable groups of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed DOT program, policy, or activity.

s. Minority Persons include the following:
   (1) American Indian and Alaska Native, which refers to people having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
   (2) Asian, which refers to people having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent.
   (3) Black or African American Populations, which refers to peoples having origins in any of the Black racial groups of Africa.
   (4) Hispanic or Latino Populations, which includes persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
   (5) Native Hawaiian and Other Pacific Islander, which refers to people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

t. Minority Population: any readily identifiable group of minority persons who live in geographic proximity and, if circumstances warrant, geographically

dispersed/transient populations (such as migrant workers or Native Americans) who will be similarly affected by a proposed DOT program, policy, or activity.

u. National Origin: the particular nation in which a person was born, or where the person's parents or ancestors were born.

v. Noncompliance: a FTA determination that the recipient or subrecipient has engaged in activities that have had the purpose or effect of denying persons the benefits of, excluding from participation in, or subjecting persons to discrimination in the recipient's program or activity.

w. Persons: where designation of persons by race, color, or national origin is required, the following designations ordinarily may be used: "White not of Hispanic origin", "Black not of Hispanic origin", "Hispanic", "Asian or Pacific Islander", "American Indian or Alaskan Native." Additional subcategories based on national origin or primary language spoken may be used where appropriate, on either a national or regional basis.

x. Predominantly Minority Area: a geographic area, such as a neighborhood, Census tract, or traffic analysis zone, where the proportion of minority persons residing in that area exceeds the average proportion of minority persons in the recipient's service area.

y. Predominantly Low-Income Area: a geographic area, such as a neighborhood, Census tract, or traffic analysis zone, where the proportion of low-income persons residing in that area exceeds the average proportion of low-income persons in the recipient's service area.

z. Recipient: any State, political subdivision, instrumentality, or any public or private agency, institution, department or other organizational unit receiving financial assistance from FTA.

aa. Secretary: the Secretary of the Department of Transportation.

bb. Service Area: either the geographic area in which a transit agency is authorized by its charter to provide service to the public or to the planning area of a State Department of Transportation or Metropolitan Planning Organization.

cc. Service Standard/Policy: an established policy or service performance measure used by a transit provider or other recipient, or subrecipient as a means to plan or distribute services and benefits within its service area.

dd. Subrecipient: any entity that receives FTA financial assistance as a pass-through from another entity.

ee. Title VI Program: a recipient's submission, provided to FTA or to the subrecipient's direct recipient every three years, containing information in response to the requirements of the FTA Circular 4702.1.

PART 1: Organization, Staffing and Responsibilities

Metropolitan Council

The Metropolitan Council was established by the Minnesota Legislature in 1967. The Council provides cost-effective transit and wastewater services, coordinates orderly and economic development, and assists communities as they plan for anticipated growth.

The Council has jurisdiction in the seven-county Minneapolis-St. Paul region comprising Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties. The Council:

- Provides an average of 252,000 bus and rail rides each weekday.
- Collects and treats up to 250 million gallons of wastewater daily, protecting public health and the environment.
- Plans and helps fund a system of regional parks and trails – 53,000 acres in all.
- Provides affordable housing opportunities to households with low-incomes.
- Serves as the MPO for the region.

The Council develops, in cooperation with local communities, the *2030 Regional Development Framework,* a set of policies to guide the efficient growth of the region and help maintain the region's economic competitiveness.

The Council carries out the *Framework*, in part, through its plans for "regional systems" – transportation, airports, regional parks, and water resources.
Council staff is organized in four divisions that focus on transportation (Metro Transit and Metropolitan Transportation Services), the environment and community development, supported by administrative and service units. The following three organizational charts detail the overall organization, as well as the two transportation divisions, which are of specific interest to the FTA.

Governance

The Metropolitan Council has 17 members who are appointed by and serve at the pleasure of the governor.

Sixteen Council members represent geographic districts of equal population across the region. The Council chair, the 17th member, serves at large. The role of Council members is to provide a regional perspective and work toward a regional consensus on issues facing the metropolitan area.

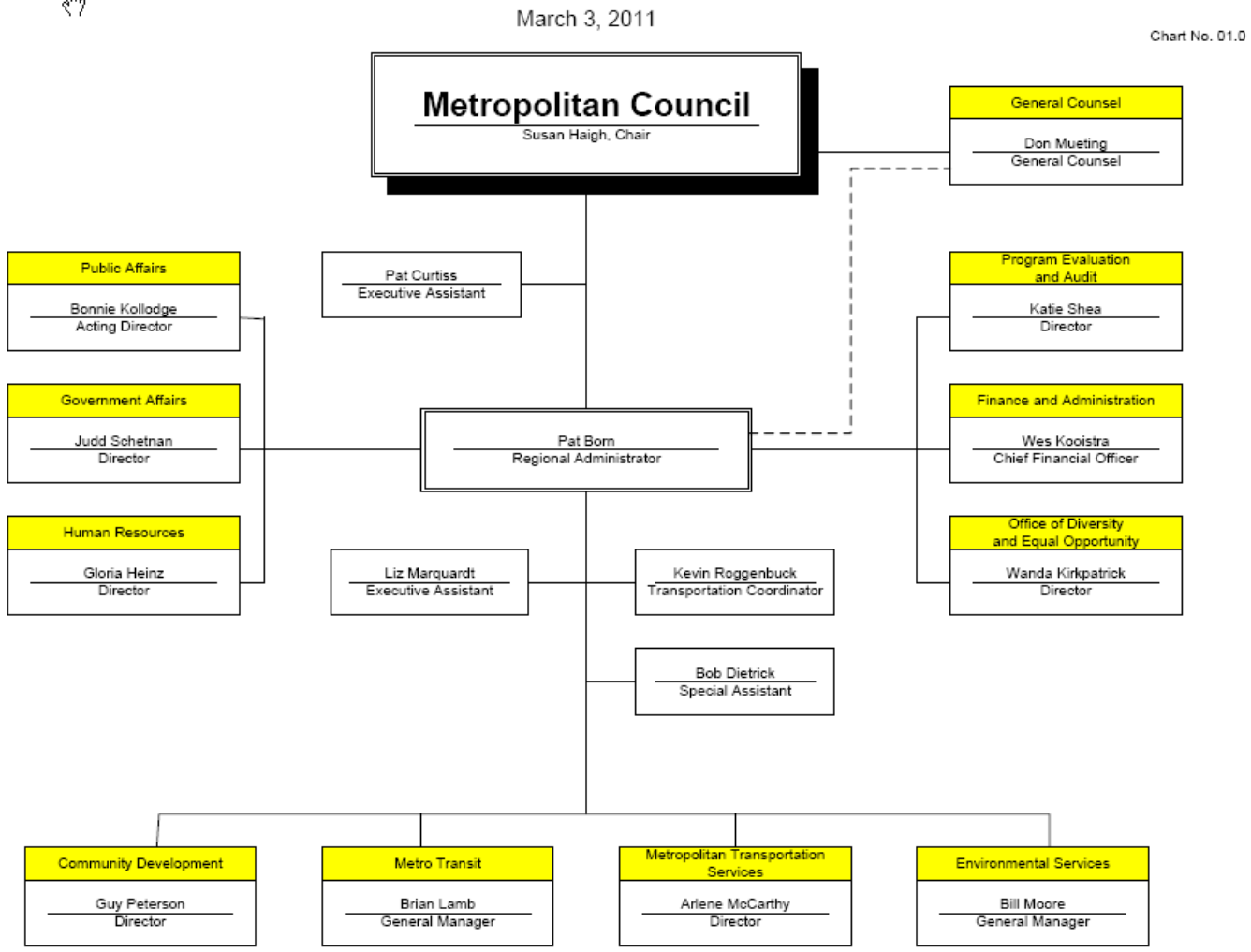
All meetings of the Council and its subcommittees are open to the public.

Guiding principles

- Focus on our mission.
- Balance regional needs with local concerns.

- Maximize Council account-ability.
- Involve citizens in fulfilling the Council's mission.
- Efficiently use current and future regional infrastructure, services and resources.
- Operate quality services in an inclusive, customer-focused and efficient manner.
- Encourage innovation to improve services and programs.

Title VI Program Organizational Charts

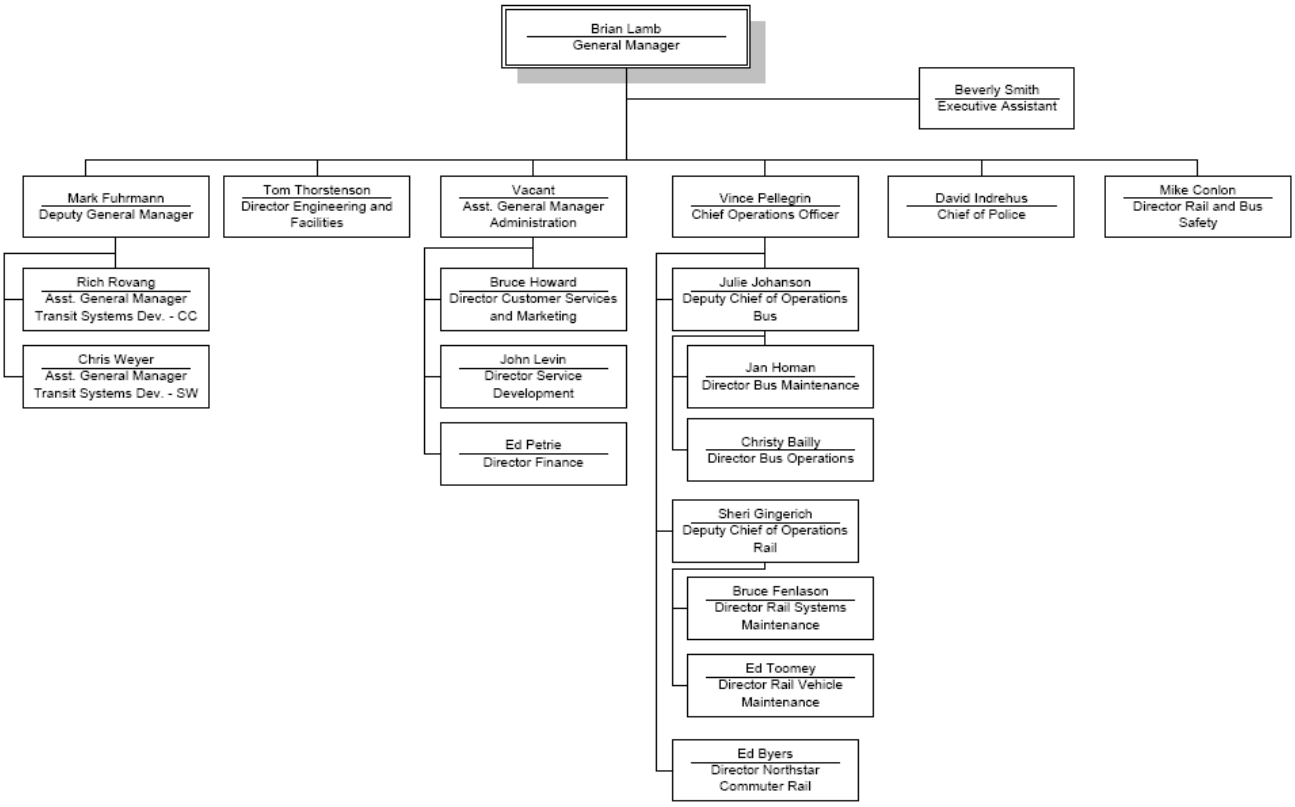


Metropolitan Council

Metro Transit Executive Division

Chart No. 04.0

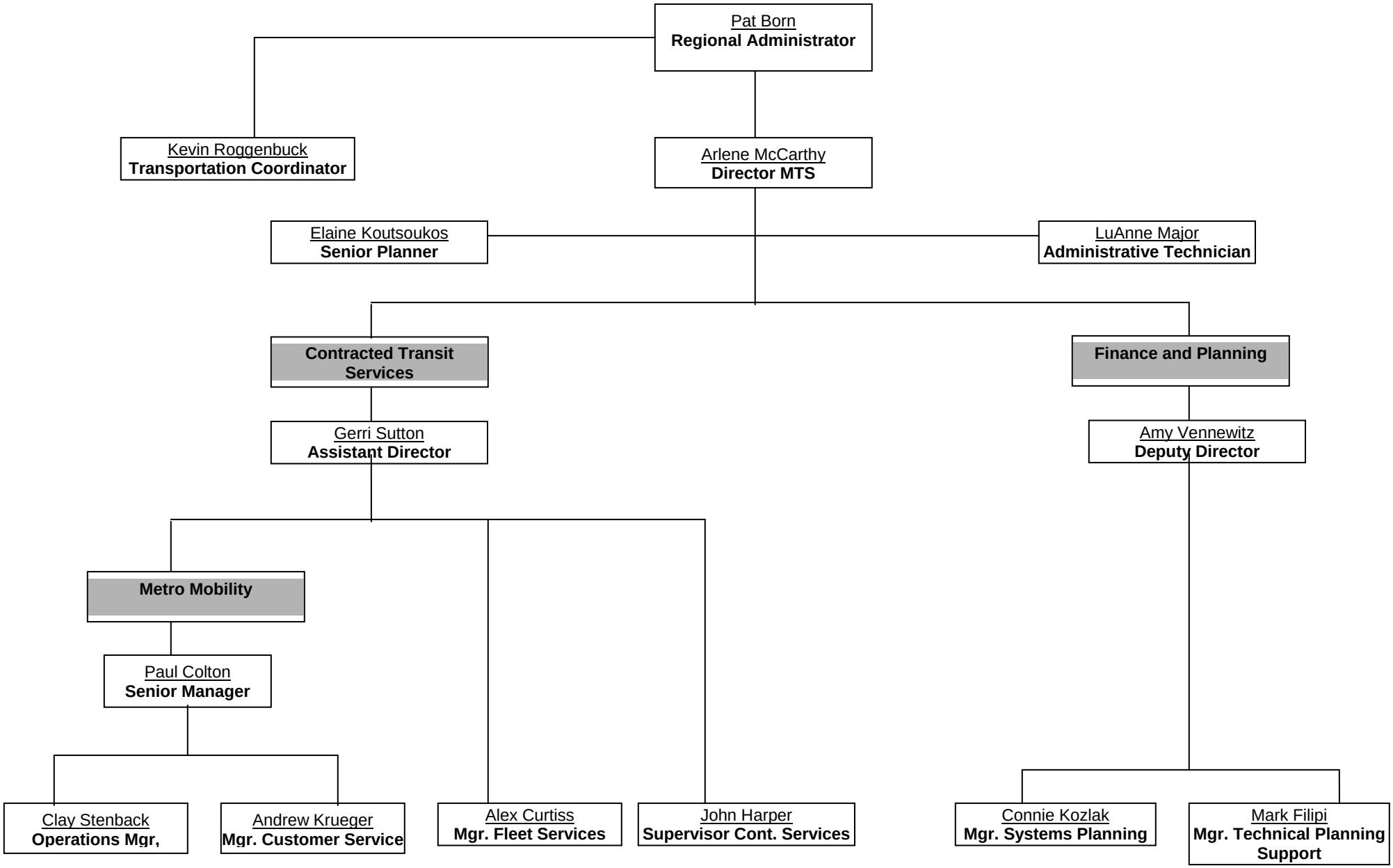
March 7, 2011



Metropolitan Council

Metropolitan Transportation Services

June 22, 2008



Personnel Breakdown

COUNCIL AND COMMITTEE MEMBER GENDER AND RACIAL BREAKDOWN

METROPOLITAN COUNCIL

Name	Gender	Race
Susan Haigh	F	Caucasian
Roxanne Smith	F	Caucasian
Lona Schreiber	F	Caucasian
Jennifer Munt	F	Caucasian
Gary Van Eyll	M	Caucasian
Steve Elkins	M	Caucasian
James Brimeyer	M	Caucasian
Gary Cunningham	M	African American
Adam Duininck	M	Caucasian
Edward Reynoso	M	Hispanic/Latino
John Doan	M	Vietnamese
Sandy Rummel	F	Caucasian
Harry Melander	M	Caucasian
Rich Kramer	M	Caucasian
Jon Commers	M	Caucasian
Steven Chavez	M	Hispanic/Latino
Wendy Wulff	F	Caucasian

LIVABLE COMMUNITIES ADVISORY COMMITTEE

Name	Gender	Race
Ruth Grendahl	F	Caucasian
Janet Jeremiah	F	
Blair Tremere	M	Caucasian
Orlena Iversen		
Charlene Zimmer	F	Caucasian
Don Jensen	M	Caucasian
Peggy Lucas	F	Caucasian
Lance Neckar	M	
Jim Barton	M	Caucasian
Regina Bonsignore	F	Caucasian
Doug Snyder	M	Caucasian
Dan Marckel	M	Caucasian

TRANSPORTATION ADVISORY BOARD

Name	Gender	Race
Dennis Berg	M	Caucasian
Randy Maluchnik	M	
Paul Krause	M	Caucasian
Jan Callison	F	Caucasian
Tony Bennett	M	Caucasian
Jon Ulrich	M	Caucasian
Dennis Hegberg	M	Caucasian
Julia Whalen	F	Caucasian
Russ Stark	M	Caucasian
Dan Gustafson	M	
Bethany Tjornhom	F	Caucasian
TBD		
Becky Petryk	F	
Dick Swanson	M	Caucasian
Robert Lilligren	M	Caucasian
James Hovland	M	Caucasian
Dick Swanson	M	Caucasian
Andrew Reinhardt	M	
Thomas Heffelfinger	M	Caucasian
James Meyers	M	Caucasian
Chuck Haik	M	Caucasian
Bart Ward	M	Caucasian
Bill Hargis	M	Caucasian
Jill Smith	F	Caucasian
Kendell Johnson	M	Caucasian
Matthew Craig	M	
Richard Mussell	M	Caucasian
Ron Have	M	Caucasian
David Gepner	M	Caucasian
TBD		
Lisa Peilen	F	
David Thornton	M	Caucasian
Scott McBride	M	Caucasian

METROPOLITAN PARKS AND OPEN SPACE COMMISSION

Name	Gender	Race
Chuck Haas	M	Caucasian
Doug Baines	M	Caucasian
Robert Moeller	M	Caucasian
Richard Jabs	M	Caucasian
Jeffrey Lee	M	Caucasian
Tom Gamec	M	Caucasian
Daniel Shlaferman	M	Caucasian
vacant		
Barbara Schmidt	F	Caucasian

LAND USE ADVISORY COMMITTEE

Name	Gender	Race
council member tbd		
Marvin Johnson	M	Caucasian
Tami Diehm	F	Caucasian
Terry Schneider	M	Caucasian
Jerry McDonald	M	Caucasian
Jon Ulrich	M	Caucasian
vacant		
Karl Drotning	M	Caucasian
Robert Shaffer	M	Caucasian
Duane Arens	M	Caucasian
David Elvig	M	Caucasian
Barbara Thomas	F	Caucasian
Robert Kermes	M	Caucasian
David Beaudet	M	Caucasian
Michael Noonan	M	Caucasian
Deborah Haugh	F	Caucasian
Nancy Schouweiler	F	Caucasian
Andrew Hestness	M	Caucasian

TRANSPORTATION ACCESSIBILITY ADVISORY COMMITTEE

Name	Gender	Race
Ron Biss	M	Caucasian
Susan Warner	F	Caucasian
(vacant)		Caucasian
David Bruflodt	M	Caucasian
Rozanne Severance	F	Caucasian
James Williams	M	Caucasian
Bruce Lattu	M	Caucasian
Nichole Villavicencio	F	
Darrell Paulsen	M	Caucasian
Margo Imdieke Cross	F	Caucasian
Ken Rodgers	M	Caucasian
Wayne Wittman	M	Caucasian
Jerolyn Pofahl	F	Caucasian
Jeffrey Nurick	M	Caucasian
Christian Knights	M	Caucasian
Bob Benson	M	Caucasian

METROPOLITAN AREA WATER SUPPLY ADVISORY COMMITTEE

Name	Gender	Race
Susan Haigh	F	Caucasian
TBD		
Gene Hugoson	M	Caucasian
Sanne Magnan	F	Caucasian
John Stine	M	Caucasian
Mark Holsten	M	Caucasian
Jim Japs	M	Caucasian
Brad Moore	M	Caucasian
Gaylen Reetz	F	Caucasian
Dennis Berg	M	Caucasian
Joe Harris	M	Caucasian
Tom Furlong	M	Caucasian
Linda Loomis	F	Caucasian
Barry Stock	M	Caucasian
Chuck Haas	M	Caucasian
Steve Schneider	M	Caucasian

Title VI Program Area Administrators

Subrecipients of FTA money granted to the Council

The Metropolitan Council functions as both the transit operator and the MPO for the Twin Cities Metro Area. As the transit operator, the Council is the recipient of FTA funds that are sometimes passed through to other governmental units (subrecipients) who provide transit. Over the last four years, these subrecipients include:

Capital

Southwest Transit

lsimich@swtransit.org

Minnesota Valley Transit Authority

Beverly Miller
Executive Director
Minnesota Valley Transit Authority
100 East Highway 13, Burnsville, MN 55337
(952) 882-7503
bmiller@mvta.com

City of Maple Grove

Mike Opatz
Transit Administrator
City of Maple Grove
12800 Arbor Lakes Parkway
Maple Grove, MN 55369
Phone: 763-494-6005
Fax: 763-494-6421
mopatz@ci.maple-grove.mn.us

JARC

Dakota County

Jackie Nielsen
Dakota County Northern Service Center
1 Mendota Road W, Suite 100
West St. Paul, MN 55118-4765
(651) 554-5940
jackie.nielsen@co.dakota.mn.us

Anoka County

Nicole Swanson
Anoka County Job Training Center
1201 89th Ave NE., Suite 235

Blaine, MN 55434
(763) 783-4866
nicole.swanson@co.anoka.mn.us

Hennepin County

Ron White, Senior Planning Analyst
South Hennepin Workforce Center
4220 Old Shakopee Road
Bloomington, MN 55437
(952) 881-6577
Ron.White@co.hennepin.mn.us

As the MPO, the Council is itself a subrecipient of FTA planning money through a Consolidated Planning Grant (CPG) agreement with MnDOT. Some of these funds have been passed to other governmental units for planning studies over the last four years. These include:

MTS - Planning subrecipients

Using CPG funds where we are the subrecipients to MnDOT, the FTA recipient

Anoka County – TH 10 Forecasting Study

Kate Garwood
Anoka County Highway Department
1440 Bunker Lake Boulevard
Andover, MN 55304
763-862-4230
Kate.Garwood@co.anoka.mn.us

Scott County – Scott County Transit Study

Troy Beam
828 First Avenue East
Shakopee, MN 55379
Phone: (952) 496-8341
TBeam@co.scott.mn.us

Minneapolis – Access Minneapolis Study

Charleen Zimmer
203 City Hall
350 5th Street
Minneapolis, MN 55415
612-673-3166
charleen.zimmer@ci.minneapolis.mn.us

MnDOT (for CTS) – Measuring Transit Impacts

Sue Lodahl
MnDOT - Research
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MnDOT – Coordinated Transit Website Development

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Designation: Title VI Liaison

Responsibility for Title VI Program Implementation

The Chair of the Metropolitan Council has overall responsibility for the Title VI program and performs the role of providing policy leadership regarding the implementation of the program.

The Regional Administrator has responsibility for establishing and maintaining a program to promote the Metropolitan Council's Title VI program. This responsibility will be carried out in conjunction with the Title VI Liaison.

The Regional Administrator has designated its Director, Equal Opportunity as its Title VI Liaison, responsible for implementation of all aspects of the Council's Title VI program. The Title VI Liaison shall have direct and independent access to and direct communication with the Regional Administrator concerning Title VI program matters.

The Interdisciplinary Team has responsibility for effectively carrying out the Title VI program within their particular departments with a focus on the following:

A. Foster awareness of nondiscrimination requirements

B. Participate in the development and implementation of the Title VI Plan and Guidelines.

C. Identify and prioritize areas of vulnerability and or need.

D. Develop a Title VI Work Plan.

E. Establish Program roles and responsibilities.

F. Act on the Title VI Program Plan.

G. Continuously assess the Plan's effectiveness.

The Title VI Liaison

The Title VI Liaison is the Council's expert on the Title VI Program Plan and Guidelines and plays a participatory lead role in the development and implementation of Federal Transit Administration (FTA) Title VI Compliance Program region wide.

The Title VI Liaison:

- Provides guidance and technical assistance on Title VI matters and has overall program responsibility for reviewing required reports regarding Title VI compliance and initiating monitoring activities including developing procedures and monitoring for:
    - Prompt processing and resolution of Title VI complaints.
    - Collection of statistical data (race, ethnicity, color, national origin, sex, disability and age) on participants in, and beneficiaries of the Council's programs, activities and services.
    - Identification and elimination of discrimination when found to exist.
    - Prompt resolution in deficient areas.

    - Pre-grant and post-grant approval review for compliance with Title VI requirements.
- Conducts Title VI compliance reviews of Council program area activities and cities, counties, consultants, contractors, suppliers, planning agencies and other subrecipients of Federal financial assistance.
- Ensures Title VI requirements are included in policy directives and that the procedures used have built-in safeguards to prevent discrimination.
- Coordinates the development and implementation of a training program.
- Prepares an annual report of Council Title VI accomplishments and upcoming goals including an annual update to the Title VI Program Plan that reflects organizational, policy and implementation changes.
- Assists program personnel to correct Title VI problems or discriminatory practices or policies found when conducting self-monitoring and compliance review activities.
- Develops Title VI information for public dissemination, where appropriate, in languages other than English.
- Ensures Title VI discrimination complaints are investigated.

The Title VI Consultant:

Title VI Consultant works at the direction of the Title VI Liaison to assist and support the Council's Title VI Program's role and responsibilities and are experts on the Title VI Program, Plan, and Guidelines.

The Title VI Consultant:

- Advises the Title VI Liaison of Title VI issues.
- Provides technical assistance to program personnel.
- Refers Title VI discrimination complaints to the Director, Equal Opportunity.
- Reviews policy directives for Title VI compliance to ensure that procedures used have built-in safeguards to prevent discrimination.
- Conducts Title VI compliance reviews of department program areas and cities, counties, consultants, contractors, suppliers, planning agencies, and other subrecipients of Federal financial assistance.
- Assists program personnel to correct Title VI problems or discriminatory practices or policies.
- Develops Title VI training modules and conducts Training-for-Trainers and workshops.
- Reviews and analyzes statistical data provided by programs on participants in and beneficiaries of the Council's programs, activities, and services.
- Develops Title VI information for public dissemination, where appropriate, in languages other than English.
- Participates in pre-grant and post-grant approval reviews for compliance with Title VI requirements.

Interdisciplinary Approach

Title VI Interdisciplinary Team provides guidance to ODEO and program personnel and serves as advisors to fully implement the Title VI Program. This coordinated and cooperative approach of teaming program and Title VI specialists is essential to adequately mitigate identified adverse impacted communities and to ensure mechanisms are in place to avoid discrimination.
The focus is to:

- Foster awareness of nondiscrimination requirements.
- Participate in the development and implementation of the Title VI Plan and Guidelines.
- Identify and prioritize areas of vulnerability and/or need.
- Formulate and prioritize strategies to address areas of vulnerability.
- Develop a Title VI Work Plan.
- Establish program roles and responsibilities.
- Act on the Title VI Program Plan.
- Continuously assess the plan's effectiveness.

ODEO Office

Position Title	Name	Gender	Race
Director	Wanda Kirkpatrick	F	African American
Title VI Liaison	Wanda Kirkpatrick	F	African American
Sr. EO Consultant – Title VI	VACANT		
Sr. EO Consultant – DBE – CCPO	Roderic Southall	M	African American
Sr. EO Consultant – DBE – EPA	Johnnie Burns	M	African American
Sr. EO Consultant – DBE – FTA	Pat Calder	F	Caucasian
Sr. EO Consultant – EEO	Jan Dietrich	F	Caucasian
Sr. EO Consultant – EEO	VACANT		
EO Consultant – Workforce- CCPO	Lucas Miller	M	Caucasian
EO Consultant – DBE – FTA	Tracey Jackson	F	Caucasian

Interdisciplinary Team

Position Title	Name	Gender	Race
Title VI Liaison/Director ODEO	Wanda Kirkpatrick	F	African American
Transit Systems Development	Rich Rovang	M	Caucasian
Engineering and Facilities	Tom Thornstenson	M	Caucasian
Purchasing	Mickey Gutzman	F	Caucasian
Service Development	John Levin	M	Caucasian
Contracted Transit Services	Gerri Sutton	F	Caucasian
Finance and Planning	Amy Vennewitz	F	Caucasian
Public Affairs	Bonnie Kollodge	F	Caucasian
Legal	Don Mueting	M	Caucasian
Research	Libby Starling	F	Caucasian
Program Evaluation and Audit	Katie Shea	F	Caucasian
LOD	Marcy Syman	F	Caucasian
Grants Management	Mary Gustafson	F	Caucasian

PART 2: Administration - General

Complaints

If any individual believes that s/he or any other program beneficiaries have been subjected to unequal treatment or discrimination on the grounds of race, color, national origin, sex, age or disability, s/he may exercise their right to file a complaint with the Office of Diversity and Equal Opportunity, the Federal Transit Administration, or the U.S. Department of Transportation (see "Discrimination Complaint Procedure," Part IV).

Data Collection

Statistical data on race, ethnicity, color, national origin, sex, age, and disability of participants in and beneficiaries of the Council's programs will be gathered and analyzed and maintained by the Council to determine the transportation investment benefits and burdens to the eligible population, including minority and low-income populations. Each of the Title VI special emphasis program areas will maintain data to be incorporated in the Title VI Annual Update Report. Data gathering procedures will be reviewed regularly to ensure sufficiency of the data in meeting the requirements of the Title VI program administration.

Public Dissemination of the Title VI Information

Recipients of Federal financial assistance are required to publish or advertise that the program is an equal opportunity program and/or indicate that Federal law prohibits discrimination. Please refer to the Public Notice at http://www.metrocouncil.org/Diversity/NondiscriminationPledge.htm.

The Metropolitan Council and Metro Transit websites have statements regarding the Council's Title VI program and the rights of citizens under the Title VI program. This information can be found for Council employees on the Intranet and the public on the Internet.

A brochure discussing the Council Title VI program is under development. It will provide the public with information regarding the Council's Title VI program and their rights under the law. This brochure will also be translated into appropriate languages.

PART 3: Programs Impacted by Title VI

Programs Impacted by Title VI

Title VI Liaison, ODEO - Wanda Kirkpatrick

The Metropolitan Council Office of Diversity and Equal Opportunity (ODEO) provides centralized policy and strategy guidance and administrative services regarding all Recruitment and Outreach, Disability Management, Workforce Statistical Information, Equal Opportunity - Discrimination Complaint Investigation, and Disadvantaged Business Enterprise Programs.

Engineering and Facilities - Tom Thornstenson

The Engineering and Facilities staff is responsible for the development and on-going maintenance of Metro Transit's public and support facilities. In the public facility area, they plan, design, construct and maintain park and rides, passenger shelters, and transit centers. The staff also performs similar services relative to the support facilities. Support facilities include Metro Transit's buildings and grounds such as the bus garages and offices.

Contracts and Procurement - Micky Gutzman

The procurement function at the Metropolitan Council serves two purposes:

- Assist internal customers in procuring goods and services needed to conduct Council business.
- Perform and document procurements in compliance with Council policies and procedures, federal, state, and local laws, and grant funding requirements.

The Council has two procurement departments, the Contract and Procurement Unit (CPU) and Metro Transit Purchasing and Contract Services. Council procurement activities are divided between these two departments, with CPU serving the Council's Environmental Services Division and most other work groups located at the Council's 390 North Robert Street office, and Metro Transit Procurement serving Metro Transit and Metropolitan Transportation Services.

Transit Systems Development - Rich Rovang

The Transit Systems Development works cooperatively with Service Development to analyze the Title VI impacts of any significant changes to Metro Transit service that would be created by the development of any major transit projects prior to revenue operations.

Service Development - John Levin

Service Development is responsible for planning and scheduling an efficient, effective and equitable transit system that meets the needs of the region. We do this through:

- Understanding regional transit markets, future transit demand and development patterns;
- Partnering with local governments, businesses and residents to design and implement effective transit service that equitably distributes limited transit resources;

- Continually monitoring ridership patterns and operating conditions and adjusting schedules as needed;
- Developing efficient schedules that provide fast, reliable, and easy to use transit service for our customers; and
- Creating high-quality work assignments for operators that minimize unnecessary negative impacts.

With respect to Title VI requirements and goals, Service Development monitors changing service levels and demographics to ensure that transit services and facilities are distributed equitably. For major service changes, Service Development plans for and participates in a full and inclusive public participation process and reviews the impacts of the changes to ensure that there is not a disparate distribution of either benefits or detriments.

Contracted Transit Services - Gerri Sutton

Contracted Transit Services (CTS) is a work group within the department of Metropolitan Transportation Services at the Metropolitan Council. CTS staff manage the Council's transit service contracts for compliance with service quality standards, Council operating procedures, federal and state laws. CTS manages Metro Mobility, Community-Based DAR Grants, Fixed Route, and Van Go.

In addition to these directly managed contracts, MTS has an ongoing relationship with seven independent, but publicly funded, transit systems within the Council's jurisdiction. These programs are referred to as Suburban Providers. They are: Plymouth, Maple Grove, Shakopee, Prior Lake, Minnesota Valley Transit Authority, South West Transit, and Minnetonka. Operating funds, in the form of Motor Vehicle Sales Tax (MVST) and state general funds are received by the Council and passed through to the Suburban Providers via the adopted MTS budget. Additionally, MTS receives both federal and local funds for capital expenses that are distributed to Suburban Providers via sub-recipient agreements.

CTS works with the U of M and Suburban Transit providers to coordinate service efforts, comply with NTD reporting requirements, manage the regional fare collection system, and manage the investment in rolling stock. Although Metro Transit leads the planning efforts for all Council funded fixed route services, CTS works with Metro Transit's department of Service Development to coordinate efforts between privately contracted and directly operated fixed route services.

Finance and Planning - Amy Vennewitz

Together with the Transportation Advisory Board, the Metro Council acts as the federally designated Metropolitan Planning Organization. The following activities are carried out by the Finance and Planning staff in the MTS department:

- Develop the long-range *Transportation Policy Plan* (TPP) and other transportation policies for the metropolitan area through collaborations with state and local governments.
- Develop the federal Transportation Improvement Program (TIP) for the metropolitan area, which is the short-range capital improvement program for all projects using federal transportation funds.

- Prepare the annual Unified Planning Work Program (UPWP) describing the region's transportation planning activities
- Implement transportation policy through the allocation of federal funds, through implementation of its own programs and through coordination with the federal, state, and local governments.
- Conduct transportation modeling and travel demand forecasting.

Public Affairs - Bonnie Kollodge

The mission of the Public Affairs Office is to increase public awareness and understanding of the Council's role in guiding the orderly, economical development of the Twin Cities metropolitan area, and the efficient delivery of regional services. The Office is responsible for all external and internal communications, including publications, media relations, Council websites, and public outreach. These efforts include providing communications guidance and support on issues involving Council plans and policies to Metro Transit, an operating division of the Council, and to the Central Corridor light rail planning project.

Legal - Don Mueting

The Office of the General Counsel comprises a General Counsel, five staff attorneys, and three administrative staff. The Office of the General Counsel provides in-house legal advice to the governing body of the Metropolitan Council and its senior management, and provides legal assistance and support in four major policy areas of significance to the Metropolitan Council: transit and transportation planning, environmental services, and community development. In-house legal assistance expertise includes: environmental law, including regulatory and statutory compliance; contracts and procurement; construction law; data privacy; ethical matters; regional housing assistance programs and housing policy; intellectual property; employment and labor law; and a wide variety of real estate services. The Office of the General Counsel also coordinates and manages litigation services and specialized legal services performed by outside counsel.

Sub-recipient

All contracts and grant agreements between the Council and its sub-recipients will contain language regarding the sub-recipients intent to comply with Title VI regulations. The sub-recipient should have in place internal monitoring procedures to ensure their continued compliance with Title VI regulations. The sub-recipient will establish and publicize a Title VI complaint process. Contract sub-recipients will continue to be monitored by the Council for compliance with all terms of their contracts with the Council including Title VI. The Council may also conduct routine compliance reviews of the grants/contracts not scheduled for review.

Title VI Program Plan

Title VI Requirements

The Title VI of the 1964 Civil Rights Act and related statues state that no person in the U.S. shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, receiving Federal financial assistance. Pursuant to this mandate, recipients of Federal financial assistance must take affirmative steps to ensure that discrimination, as addressed by Title VI does not occur in its organization or its subrecipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants.

- Requirement to provide an annual Title VI Certification and Assurance
- Requirement to develop Title VI complaint procedures
- Requirement to record Title VI investigations, complaints, and lawsuits
- Requirement to provide meaningful access to LEP persons
- Requirement to notify beneficiaries of protection under Title VI
- Requirement to provide additional information upon request
- Requirement to prepare and submit a Title VI program

On January 22, 2001, the U.S. Department of Transportation issued Policy Guidance to recipients on special languages services to limited English proficient (LEP) beneficiaries. Inasmuch as the responsibility to provide equitable services to LEP persons falls under Title VI of the Civil Rights Act of 1964, this responsibility will also be carried out through an interdisciplinary approach.

Guidelines

Title VI provides program-specific requirements that State DOTs and other State administrating agencies such as the Metropolitan Council, administrating Elderly Individuals and Individuals with Disabilities, Rural and Small Urban Area, Job Access and Reverse Commute (JARC), and New Freedom funding programs as well as and designated recipients in large urbanized areas for JARC and New Freedom shall follow to ensure that their programs, policies, and activities comply with the Department of Transportation (DOT) Title VI regulations. It also offers guidance on integrating, into programs, policies, and activities, considerations expressed in the DOT Order on Environmental Justice.

The following areas have specific guidelines that can be found in Circular 4702.1A:

GUIDANCE ON CONDUCTING STATEWIDE TRANSPORTATION PLANNING

GUIDANCE ON PROGRAM ADMINISTRATION

GUIDANCE ON MONITORING SUBRECIPIENTS

GUIDANCE ON PROVIDING ASSISTANCE TO SUBRECIPIENTS

REQUIREMENT TO PREPARE AND SUBMIT A TITLE VI PROGRAM

METROPOLITAN COUNCIL TITLE VI TRANSIT PROGRAM EVALUATION: PROCEDURAL GUIDELINES

The transit operations of the Metropolitan Council, including but not limited to Metro Transit, Metropolitan Transportation Services, and Metro Mobility, will routinely and wherever applicable review the effects of major changes in the transit system's structure, fares, services, and capital investments in regards to the Federal Transit Administration's Title VI requirements, specifically to insure nondiscriminatory actions in regards to minorities in the Twin Cities Region.

Significant change in each of the following categories will be considered as being subject to analysis for Title VI compliance and reporting.

FARE STRUCTURE CHANGES:
Fare increases or decreases, changes in relative fares by type or time of service, half fare considerations, transfer policies, fare discount programs, and reduced fares.

SERVICE LEVEL CHANGES:
Significant increase or reduction in trip frequency, route reduction or cancellation, route diversion or reroute, or span of service changes. Review will follow Metropolitan Council policy definitions for significant changes that also serve to trigger procedures for public input and outreach.

SERVICE RESTRUCTURING:

Major, planned redistribution of services and infrastructure; implementation of new modes and concepts, including LRT, BRT, and other transitways; and reinvestment of operating resources to improve efficiency or coverage as deemed necessary or desirable to better serve the general public.

MAJOR CAPITAL INVESTMENT:
Investment of transit capital in major public facilities that may impact service delivery, access and mobility, and passenger amenities including transit centers, transit stations, shelters, park and rides, transfer and layover facilities, maintenance and storage facilities, transit advantages, and transitways (busways, LRT, BRT).

TRANSIT POLICY CHANGES:
Changes in declared public policy that will affect service delivery, fares, location and type of service development, investment, and other policy directions that directly impact public transit services.

Procedures for evaluation:

The routine examination of proposed significant changes or public facilities will be undertaken using the following tools or reports, as applicable and appropriate depending on the category of change to be evaluated. Reports, maps, compilation of comments, evaluation and responses, and other documentation are all considered a part of the public record and available for public scrutiny.

(1) Service Change Checklist of Impacts; A checklist of the following items showing positive, negative, or no impact to be compiled for each identified minority group, enclave, or other category, as a ranking of relative impact versus the general public for the region. Items to include:
- Relative mobility of members of the minority
- Service density – route spacing and coverage
- Service frequency
- Span of service
- Connectivity to transit network
- Geographic isolation
- Any negative impact will be accompanied by a narrative detailing either mitigating actions to be implemented, or explanation of over-riding considerations or other factors preventing corrective measures.

(2) Mapping; Illustrative mapping of effected population distributions, with overlays of service changes, routings, frequencies, fare zones, facilities placement, etc. before and after changes.

(3) Public Hearings and Input; Follows or exceeds Council published policy for public input and outreach. Includes full compilation of comments from multiple channels for response, narrative of process, including contacts made with minorities and community leaders, and evidence of proposal modifications as a result of the process where practical.

(4) Report on or reference to significant Metropolitan Council capital projects or land acquisition undertaken to promote service delivery and public transit operations. To the extent the Metropolitan Council participates in the project, it shall not determine the location or displace any persons or businesses on the basis of race, color, or national origin. If EIS is required, reference to Title VI evaluation in document will suffice.

Monitoring and Compliance

The Metropolitan Council's Title VI Program is required to conduct compliance reviews of impacted programs and its subrecipients. The purpose of the compliance review process is to determine if the programs and subrecipients are meeting Title VI compliance requirements. These reviews will be conducted by the Title VI Liaison and the Program and Evaluation Director.

A compliance review schedule will be developed and posted in the fall of each year on the Council's Title VI Program. Programs scheduled for review will be notified in writing at least 60 days in advance to coordinate a date to ensure the attendance of the Division Chief and key personnel. The notice of review (NOR) will include a compliance review instrument containing questions that the programs are required to answer in writing and return 30 days prior to the scheduled on-site review.

The Title VI Program Liaison staff and Program and Evaluation Staff will review the program response during the desk review process in advance of the on-site review. The on-site review will be conducted over a five-day period and consist of an entrance conference, review of files and documentation, interviews, and an exit conference.

A Determination of Findings (DOF) will be issued within a 30-day period following the exit conference. A copy of the findings is provided to the Department Director, the Division General Manager, ODEO Director and to the appropriate executive staff of the program being reviewed, and the FTA region 5 office. No action on the part of the program is required on findings of compliance, unless a condition of compliance is specified. However, programs found out of compliance are required to develop a Corrective Action Plan (CAP) to overcome any deficiencies noted in the DOF within a period not to exceed 90 days. If it is determined that the matter cannot be resolved voluntarily, by informal means, action will be taken to effectuate compliance. See the Corrective Action section that follows.

The Council's Title VI Liaison will attend the FTA Triennial review of the Council that is a Metropolitan Planning Organization (MPO). The Liaison will assist Council staff in addressing any corrective actions or recommendations when appropriate.

Corrective Action

Effective compliance of Title VI requires the Council to take prompt action to achieve voluntary compliance in all instances in which noncompliance is found.

If a Council program or subrecipient is found out of compliance or is believed to be out of compliance with Title VI, the Council has three potential remedies:

1. Resolution of the noncompliance status or potential noncompliance status by voluntary means by entering into an agreement which becomes a condition of assistance;
2. Where voluntary compliance efforts are unsuccessful, a refusal to grant or continue the assistance is initiated; or
3. Where voluntary compliance efforts are unsuccessful, referral of the violation to the FTA who will forward to the U.S. Department of Justice for judicial consideration.

Efforts to secure voluntary compliance should be undertaken at the outset in every noncompliance situation and should be pursued through each enforcement action. Similarly, when an applicant fails to file an adequate assurance or apparently breaches its terms, notice should be promptly given on the nature of the noncompliance problem and identify possible consequences thereof and an immediate effort made to secure voluntary compliance. Oversight monitoring of contract/grant/permit/loan subrecipients is critical to ensuring compliance with Title VI. This responsibility lies with each division program.

Title VI Responsibilities

The Council recognizes that the Title VI, related statues and environmental justice (EJ) nondiscrimination policy impacts all transportation decision making; however, only those programs having *significant* Title VI responsibilities are identified below.

Transit Systems Development
Engineering and Facilities
Purchasing
Service Development
Contracted Transit Services
Finance and Planning
Communication
Legal
Sub-recipient

See Title VI Program Plan Part 3 for program details.

PART 4: Discrimination Complaint Process

Introduction

The Title VI and Related Statutes discrimination complaint procedures are intended to provide aggrieved persons an avenue to raise complaints of discrimination regarding the Metropolitan Council's programs, activities and services as required by statute.

Purpose

The purpose of the discrimination complaint procedures is to describe the process used by the Office of Diversity and Equal Opportunity (ODEO) for processing complaints of discrimination under Title VI of the Civil Rights Act of 1964 and related statutes.

Roles and Responsibilities

- The Director of the ODEO has overall responsibility for the discrimination complaint process and procedures. The Director provides direction to ODEO staff and other program directors on the discrimination complaint process.
- The ODEO staff serve as points of contact region wide for the public to initiate complaints of discrimination regarding Council programs, activities and services.
- The ODEO staff is responsible for conducting an impartial and objective investigation, collecting factual information, and preparing a fact-finding report based upon the information obtained from the investigation.

Filing a formal complaint

Applicability
The complaint procedures apply to the beneficiaries of the Metropolitan Council programs, activities, and services, including but not limited to the public, contractors, subcontractors, consultants and other subrecipients of Federal funds.

Eligibility
Any person who believes that he/she has been excluded from participation in, denied benefits or services of any program or activity administered by the Council or its subrecipients, consultants, and contractors on the basis of race, color, national origin, sex, age, or disability may bring forth a complaint of discrimination under Title VI and related statutes.

Time Limitation and Filing Options
Title VI complaints of discrimination may be filed with:

- The Office of Diversity and Equal Opportunity
- Federal Transit Administration
- U.S. Department of Transportation

In all situations, including complaints filed with the FTA or USDOT, Title VI discrimination complaints will be handled by the ODEO.

Complaints must be filed no later than 180 days after:

- The date of the alleged act of discrimination; or
- The date when the person(s) became aware of the alleged discrimination; or
- Where there has been a continuing course of conduct, the date on which the conduct was discontinued.

Type of Complaints
All Title VI and related statute complaints are considered formal as there is no informal process. Complaints must be in writing and signed by the complainant. Complaints must include the complainant's name, address and phone number and be detailed to specify all issues and circumstances of the alleged discrimination.

Complaint Basis
Allegations must be based on issues involving race, ethnicity, color, national origin, sex, age or disability. The term basis refers to the complainant's protected group status.

PROTECTED GROUP CATEGORIES	**DEFINITION**	**EXAMPLES**
Race	An individual belonging to one of the accepted anthropological racial groups; or the perception, based usually on physical characteristics that a person is a member of a racial group.	Black, White, Asian, Native American Indian, Filipino or Pacific Islander.
Ethnicity	A person of Spanish culture or origin, regardless of race.	Hispanic or Latino
Color	Color of skin, including shade of skin within a racial group.	Black, white, light brown, dark brown, etc.
National Origin	National birth site. Citizenship is not a factor. Discrimination based on language or a person's accent is covered by national origin.	Mexican, Cuban, Japanese, Vietnamese, Chinese.
Sex	Gender.	Women and men.
Age	Persons of any age.	21 year old person.
Disability	Physical or mental impairment, permanent or temporary, or perceived.	Blind, alcoholic, para-amputee, epileptic, diabetic, arthritic.

INTERNAL COMPLAINT PROCESSING

Initial Contact
ODEO staff provide complainants with:

An explanation of their filing options.
The discrimination complaint process.
A Title VI and Related Statutes Discrimination Complaint Form.

COMPLAINT PROCEDURES

These procedures apply to all complaints filed under Title VI of the Civil Rights Act of 1964, relating to any program or activity administered by the Metropolitan Council (Council) or its sub-recipients, consultants, and/or contractors. Intimidation or retaliation of any kind is prohibited by law.

These procedures do not deny the right of the complainant to file formal complaints with State or Federal agencies, or to seek private counsel for complaints alleging discrimination. These procedures are part of an administrative process that does not provide for remedies that include punitive damages or compensatory remuneration for the complainant.

Every effort will be made to obtain early resolution of complaints at the lowest level possible. The option of informal mediation meeting(s) between the affected parties and the Director of Equal Opportunity may be utilized for resolution, at any stage of the process. The Director will make every effort to pursue a resolution of the complaint. Initial interviews with the complainant and the respondent will request information regarding specifically requested relief and settlement opportunities.

1. Any individual, group of individuals, or entity that believes they have been subjected to discrimination prohibited by Title VI nondiscrimination provisions may file a written complaint with the Council's Director of Equal Opportunity. A formal complaint must be filed within **180 calendar days** of the alleged occurrence or when the alleged discrimination became known to the complainant. The complaint must meet the following requirements:

Complaint shall be in writing and signed by the complainant(s).

Include the date of the alleged act of discrimination (date when the complainant(s) became aware of the alleged discrimination; or the date on which that conduct was discontinued or the latest instance of the conduct).

Present a detailed description of the issues, including names and job titles of those individuals perceived as parties in the complained-of incident.

Allegations received by fax or e-mail will be acknowledged and processed, once the identity(ies) of the complainant(s) and the intent to proceed with the complaint have been verified**.** The complainant is required to mail a signed, original copy of the fax or e-mail transmittal for the Council to be able to process it.

Allegations received by telephone will be reduced to writing and provided to complainant for confirmation or revision before processing. A complaint form will be forwarded to the complainant for him/her to complete, sign, and return to the Council for processing.

2. Upon receipt of the complaint, the Director of Equal Opportunity will determine its jurisdiction, acceptability, and need for additional information, as well as investigate the merit of the complaint. In cases where the complaint is against one of the Council's sub-recipients of Federal funds, the Council will assume jurisdiction and will investigate and adjudicate the case. Complaints against the Council will be referred to FTA or the appropriate Federal Agency for proper disposition pursuant to their procedures.

3. In order to be accepted, a complaint must meet the following criteria:

The complaint must be filed within 180 calendar days of the alleged occurrence or when the alleged discrimination became known to the complainant.

The allegation(s) must involve a covered basis such as race, color, national origin, age, sex or disability.

The allegation(s) must involve a program or activity of a Federal-aid recipient, sub-recipient, or contractor.

4. A complaint may be dismissed for the following reasons:

The complainant requests the withdrawal of the complaint.

The complainant fails to respond to repeated requests for addition information needed to process the complaint.

The complainant cannot be located after reasonable attempts.

5. Once the Council decides to accept the complaint for investigation, the complainant and the respondent will be notified in writing of such determination within seven calendar days. The complaint will receive a case number and will then be logged into the Council's records identifying its basis and alleged harm.

6. In cases where the Council assumes the investigation of the complaint, the Council will provide the respondent with the opportunity to respond to the allegations in writing. The respondent will have 10 calendar days from the date of the Council's written notification of acceptance of the complaint to furnish his/her response to the allegations.

7. The Council's final investigative report and a copy of the complaint will be forwarded to the appropriate Federal Agency and affected parties within 60 calendar days of the acceptance of the complaint.

8. The Council will notify the parties of its final decision.

If the complainant is not satisfied with the results of the investigation of the alleged discrimination and practices, the complainant will be advised of the right to appeal to the appropriate Federal Agency.

INVESTIGATION

Investigation Plan
The investigator shall prepare a written plan, which includes, but is not limited to the following:

- Names of the complainant(s) and respondent(s);
- Basis for the complaint;
- Issues, events or circumstances that caused the person to believe that he/she has been discriminated against;
- Information needed to address the issue;
- Criteria, sources necessary to obtain the information;
- Identification of key people;
- Estimated investigation time line;
- Remedy sought by the complainant(s).

Conducting the Investigation

- The investigation will address only those issues relevant to the allegations in the complaint.
- Confidentiality will be maintained as much as possible.
- Interviews will be conducted to obtain facts and evidence regarding the allegations in the complaint. The investigator will ask questions to elicit information about aspects of the case, which the witness can provide firsthand information.
- Interviews are tape recorded with the interviewee's consent.
- A chronological contact sheet is maintained in the case file throughout the investigation.
- The investigation working papers are completed, cross-referenced and indexed.
- The interviewee may have representation of his/her choice at the interview.

Authorities

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Title VI of the 1964 Civil Rights Act, Section 60142 U.S.C. §2000d, provides that: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

(Proscribes discrimination in impacts, services, and benefits of, access to, participation in, and treatment under federal-aid recipients' programs or activities)

SECTION 324 FEDERAL-AID HIGHWAY ACT

23 U.S.C. 324, provides that: "No person shall on the ground of sex be excluded from

participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title." (Prohibits discrimination on the basis of sex).

SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 504 of the Rehabilitation Act of 1973, provides that: “(N)o qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.” (Prohibits discrimination based on physical or mental handicap).

AGE DISCRIMINATION ACT OF 1975

The Age Discrimination Act of 1975, 42 U.S.C. §6101, provides that:”(N)o person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” (Prohibits discrimination based on age).

CIVIL RIGHTS RESTORATION ACT OF 1987

The Civil Rights Restoration Act of 1987, P.L. 100-209, provides clarification of the original intent of Congress in Title VI of the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973. (Restores the broad, institution-wide scope and coverage of the non-discrimination statutes to include all programs and activities of federal-aid recipients, sub-recipients and contractors, whether such programs and activities are federally assisted or not).

EXECUTIVE ORDER 12898

E.O. 12898 — Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (as amended).

EXECUTIVE ORDER 13166, LIMITED ENGLISH PROFICIENCY

This Executive Order directs Federal agencies, recipients and sub-recipients of Federal financial assistance to examine services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide services so LEP persons have meaningful access to them. In addition, Federal agencies develop and implement a plan to improve the language-accessibility of their programs by December 11, 2000.

Metropolitan Council Title VI Complaint Form

Note: The following information is needed to assist in processing your complaint.

Complainant's Information:

Name:
Address:
City/State/Zip Code:

Telephone Number (Home):
Telephone Number (Work):

Person Discriminated Against (someone other than complainant)

Name:
Address:
City/State/Zip Code:

Telephone Number (Home):
Telephone Number (Work):

Which of the following best describes the reason you believe the discrimination took place?

☐ Race/Color (Specify)
☐ National Origin (Specify)
☐ Sex
☐ Religion
☐ Age
☐ Disability

On what date(s) did the alleged discrimination take place?

Please explain as briefly and clearly as possible what happened and how you believe your were discriminated against. Indicate who was involved. Be sure to include how you feel other persons were treated differently than you and why you believe these events occurred. (Please use additional sheets if necessary and attach a copy of written material pertaining to your case).

List names and contact information of persons who may have knowledge of the alleged discrimination.

Name	Address	Telephone

Have you filed this complaint with any other federal, state, or local agency, or with any federal or state court? Check all that apply.

☐ Federal Agency
☐ Federal Court
☐ State Agency
☐ State Court
☐ Local Agency

Please provide information about a contact person at the agency/court where the complaint was filed.

Name:
Address:
City/State/Zip Code:
Telephone Number (Work):

How can this/these issue(s) be resolved to your satisfaction?

If an advisor will be assisting you in the complaint process, please provide his/her name and contact information.
Name:
Name of Business: Position/Title:
Address:
Telephone Number:

Please sign below. You may attach any written materials or other information that you think is relevant to your complaint.
This Discrimination Complaint form or your written complaint statement must be signed and dated in order to address your allegation(s). Additionally, this office will need your consent to disclose your name, if necessary, in the course of our inquiry. The Discrimination Complaint Consent/Release form is attached for your convenience. If you are filing a complaint of discrimination on behalf of another person, our office will also need this person's consent to disclose his/her name.

I certify that to the best of my knowledge the information I have provided is accurate and the events and circumstances are as I have described them. As a complainant, I also understand that if I indicated I will be assisted by an advisor on this form, my signature below authorizes the named individual to receive copies of relevant correspondence regarding the complaint and to accompany me during the investigation.

Complainant Signature _____
Date _____

Attachments: ☐ Yes ☐ No

The Metropolitan Council
Discrimination Complaint Consent/Release Form

For Title VI Complaints

Name:
Address:
City/State:

As a complainant, I understand that in the course of an investigation it may become necessary for the Metropolitan Council, hereafter referred to as the Council, to reveal my identity to persons at the organization or institution under investigation. I am also aware of the obligations of the Council to honor requests under the State or Federal. I understand that it may be necessary for the Council to disclose information, including personally identifying details, which it has gathered as part of its investigation of my complaint. In addition, I understand that as a complainant I am protected by the Council policies and practices from intimidation or retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes and regulations which are enforced by the Metropolitan Council.

Please check one:

☐ I CONSENT and authorize to have the Council, as part of its investigation, reveal my identity to persons at the organization, business or institution, which has been identified by me in my formal complaint of discrimination. I also authorize the Council to discuss, receive and review materials and information about me from the same and with appropriate administrators or witnesses for the purpose of investigating this complaint. In doing so, I have read and understand the information at the beginning of this form. I also understand that the material and information received will be used for authorized civil rights compliance activities only. I further understand that I am not required to authorize this release, and do so voluntarily.

☐ I DENY CONSENT to have the Council reveal my identity to persons at the organization, business or institution under investigation. I also deny consent to have the Council disclose any information contained in this complaint with any witnesses I have mentioned in the complaint. In doing so, I understand that I am not authorizing the Council to discuss, receive nor review any materials and information about me from the same. In doing so, I have read and understand the information at the beginning of this form. I further understand that my decision to deny consent may impede this investigation and may result in the unsuccessful resolution of my case.

Signature _____ Date _____

Submit form and any additional information to:

Metropolitan Council ODEO	Phone: 651-602-1085
Director, Equal Opportunity	Fax: 651-602-1031
390 Robert Street North	
St Paul, MN 55101-1805	

Metropolitan Council Office of Diversity and Equal Opportunity NONDISCRIMINATION COMPLAINT PROCEDURES

These procedures apply to all complaints filed under Title VI of the Civil Rights Act of 1964, relating to any program or activity administered by the Metropolitan Council (Council) or its sub-recipients, consultants, and/or contractors. Intimidation or retaliation of any kind is prohibited by law.

These procedures do not deny the right of the complainant to file formal complaints with State or Federal agencies, or to seek private counsel for complaints alleging discrimination. These procedures are part of an administrative process that does not provide for remedies that include punitive damages or compensatory remuneration for the complainant.

Every effort will be made to obtain early resolution of complaints at the lowest level possible. The option of informal mediation meeting(s) between the affected parties and the Director of Equal Opportunity may be utilized for resolution, at any stage of the process. The Director will make every effort to pursue a resolution of the complaint. Initial interviews with the complainant and the respondent will request information regarding specifically requested relief and settlement opportunities.

Procedures

1. Any individual, group of individuals, or entity that believes they have been subjected to discrimination prohibited by Title VI nondiscrimination provisions may file a written complaint with the Council Director of Equal Opportunity. A formal complaint must be filed within **180 calendar days** of the alleged occurrence or when the alleged discrimination became known to the complainant. The complaint must meet the following requirements.
Complaint shall be in writing and signed by the complainant(s).
Include the date of the alleged act of discrimination (date when the complainant(s) became aware of the alleged discrimination; or the date on which that conduct was discontinued or the latest instance of the conduct).

Present a detailed description of the issues, including names and job titles of those individuals perceived as parties in the complained-of incident.
Allegations received by fax or e-mail will be acknowledged and processed, once the identity(ies) of the complainant(s) and the intent to proceed with the complaint have been verified. **The complainant is required to mail a signed, original copy of the fax or e-mail transmittal for the Council to be able to process it.**

Allegations received by telephone will be reduced to writing and provided to complainant for confirmation or revision before processing. **A complaint form will be forwarded to the complainant for him/her to complete, sign, and return to the Council for processing.**

2. Upon receipt of the complaint, the Director of Equal Opportunity will determine its jurisdiction, acceptability, and need for additional information, as well as investigate the merit of the complaint. In cases where the complaint is against one of the Council's sub-recipients of Federal funds, the Council will assume jurisdiction and will investigate and adjudicate the case. Complaints against the Council will be the appropriate Federal Agency for proper disposition pursuant to their procedures.

3. In order to be accepted, a complaint must meet the following criteria:

The complaint must be filed within 180 calendar days of the alleged occurrence or when the alleged discrimination became known to the complainant.
The allegation(s) must involve a covered basis such as race, color, national origin.
The allegation(s) must involve a program or activity of a Federal-aid recipient, sub-recipient, or contractor.

4. A complaint may be dismissed for the following reasons:
The complainant requests the withdrawal of the complaint.
The complainant fails to respond to repeated requests for addition information needed to process the complaint.
The complainant cannot be located after reasonable attempts.

5. Once the Council decides to accept the complaint for investigation, the complainant and the respondent will be notified in writing of such determination within seven calendar days. The complaint will receive a case number and will then be logged into the Council's records identifying its basis and alleged harm.

6. In cases where the Council assumes the investigation of the complaint, the Council will provide the respondent with the opportunity to respond to the allegations in writing. The respondent will have 10 calendar days from the date of the Council's written notification of acceptance of the complaint to furnish his/her response to the allegations.

7. The Council's final investigative report and a copy of the complaint will be forwarded to the appropriate Federal Agency and affected parties within 60 calendar days of the acceptance of the complaint.

8. The Council will notify the parties of its final decision.

9. If complainant is not satisfied with the results of the investigation of the alleged discrimination and practices the complainant will be advised of the right to appeal to the appropriate Federal Agency.

PART 5 : Annual Report 2011

General Reporting Requirements

Annual DBE Certification & Assurance

Metropolitan Council submits a Title VI assurance as part of annual Certification and Assurance to the FTA. Metropolitan Council shall collect Title VI assurances from subrecipients prior to passing through FTA Funds.
When: Annually
Lead: Annual DBE Certification - EEO Diversity
FTA Assurances - Grants
FTA Circular Pages: IV-1

The Metropolitan Council signed the annual DBE Certification and Assurance in November of 2011. The supporting information is in the TEAM System and can be found at
http://www.fta.dot.gov/funding/apply/grants_financing_1425.html

Complaint Procedures

Requires the development of procedures for investigating and tracking complaints filed against them. In addition, procedures for filing a complaint must be available to members of the public upon request.
When: One-Time (Completed)
Lead: EEO Diversity
Council Action/Policy: "Commitment to Fairness"
http://www.metrotransit.org/aboutUs/Commitment.asp
FTA Circular Pages: IV-1, IX

The Complaint Procedures and the Complaint form for the Council can be found at
http://www.metrocouncil.org/Diversity/index.htm

Record Title VI Investigations, Complaints and Lawsuits

Requires preparing and maintaining a list of any active investigations (conducted by entities other than FTA), lawsuits or complaints alleging discrimination on the basis of race, color or national origin.
When: Ongoing
Lead: EEO Diversity
Council Action/Policy: Ongoing
FTA Circular Pages: IV-1

The following is a summary of customer complaint against the Metro Transit in 2009 - 2010:

Opened	Basis	Closed	Finding
10/1/20	Race/reprisal	12/27/10	Pending

The following is a summary of Title VI received in 2009 - 2010:

Three complaints have been received since the last reporting period. All three of these complaints were focused on various aspects of the Central Corridor LRT project, which is currently under construction.

- On May 20, 2009, one complaint was filed by the Preserve Benefit Historic Rondo Committee focusing on the potential impacts of CCLRT project construction and operations, primarily on the potential for the project to displace residents and businesses through indirect impacts associated with adverse construction impacts and rising property values.

- On September 21, 2009, one complaint was filed by the Concerned Asian Business Owners. The substance of their complaint was similar to that filed by the Preserve Benefit Historic Rondo Committee, and Met Council was advised by FTA that these two complaints have been combined.

- On July 29, 2009, one complaint was filed by the Capitol City Business Council. The Metropolitan Council was advised by FTA that the complaint did not merit further investigation under Title VI.

  The Met Council has provided assistance to FTA in responding to the complaints received from the Preserve Benefit Historic Rondo Committee and from the Concerned Asian Business Owners. Two comprehensive responses were made to requests from FTA, one in June 2009 and one in January 2010. Shortly after the January 2010 response, a lawsuit was filed alleging the Central Corridor LRT NEPA process was insufficient, and the Met Council was advised by FTA that the Title VI complaint was being held in abeyance until the lawsuit was resolved. As of the date of this report, the lawsuit has not yet been resolved.

Requirement to provide meaningful access to LEP Persons

Requires FTA recipients take responsible steps to ensure meaningful access to benefits, services, information and other important portions of their programs and activities for individuals who are LEP. Section VII of the USDOT's LEP Guidance (found in Appendix A) provides recommendations.
When: On-going
Lead: EEO Diversity
Council Action/Policy: Policy Plan is being developed. On February 14, 2007, the Metropolitan Council adopted a Public Participation Plan per Federal SAFETEA-LU requirements, including ADA and LEP components.
FTA Circular Pages: IV-1

The Council has an LEP plan for the Central Corridor Light Rail Project. The 2011LEP plan can be found in the body of the Title VI Plan 2011 in Part 6.

Notify Beneficiaries of Service Protection Granted to Them

Requires recipients to provide information to the public regarding their Title VI obligations and apprise members of the public of the protections against discrimination afforded to them by Title VI.
When: As Needed,
Lead: EEO Diversity
Council Action/Policy: "Commitment to Fairness"
FTA Circular Pages: IV-2

The Council's Notification to Beneficiaries can be found at http://www.metrocouncil.org/Diversity/index.htm and at Metro Transit's website at www.metrotransit.org/aboutUs/Commitment.asp.

Title VI Program (Part of Triennial Review)

Requires recipients to report information to determine compliance with Title VI. The report includes a summary of public outreach, a LEP plan, procedures for tracking complaints, list of complaints and the notice to beneficiaries of protection granted to them.
When: Triennially (2003, 2006, 2009, 2011)
Lead: EEO Diversity – Title VI Program
Audit – Triennial Review
Council Action/Policy: Submit Title VI Program with Triennial Review
FTA Circular Pages: IV-3, V-9

This document.

Guidance on Conducting an Analysis of Construction Projects (Environmental Justice)

Requires recipients to integrate an environmental justice analysis into their National Environmental Policy Act (NEPA) documentation. Completing and submitting the FTA's standard Categorical Exclusion (CE) can meet Title VI requirements.
When: NEPA documentation for construction projects
Lead: Engineering & Construction
Council Action/Policy: As Needed
FTA Circular Pages: IV-4

The recently updated 2030 Transportation Policy Plan includes an Environmental Justice section. It is included as an exhibit.

Any Metro Transit project that is federally funded requires an environmental justice analysis in the NEPA documentation. The great majority of Metro Transit's federally funded projects meet the criteria for a Categorical Exclusion as defined in 40 CFR 1508.4. The standard CE documentation submitted to the FTA specifically addresses environmental justice concerns if they exist. In the event a different level of environmental review under NEPA is required, Metro Transit staff work in close consultation with FTA to determine the appropriate level of review and to develop a coordinated approach for completing an environmental justice analysis that is appropriate to the potential impacts of the project. Four of categorical exclusion documents are included as exhibits.

Guidance on Promoting Inclusive Public Participation

Recipient's public participation strategy should seek out and consider the viewpoints of minority, low-income, and LEP population in the course of conducting public outreach and shall offer early and continuous opportunities for the public to be involved in the identification of social, economic, and environmental impacts of proposed transportation decisions.
When: Ongoing
Lead: EEO Diversity, Service Development, Engineering & Construction, MTS, Communications
Council Action/Policy: Council Policy 2-1 and Public Participation Plan
FTA Circular Pages: IV-4

The Metropolitan Council public participation policies are below. In 2009 and 2010, there were xx public hearings for a variety of projects. Summaries of the public participation processes are included as exhibits for the following projects: adoption of the updated *2030 Transportation Policy Plan*, elimination of Route 255, Northstar Commuter Rail fare structure, Northstar Commuter Rail bus service plan, and the I-35W & 46th Street Station service plan,

1.0 Council Policies and Procedures

The Metropolitan Council's Customer Relations and Outreach Policy (adopted in 2000) establishes procedures to "provide timely and substantial opportunities for public participation in the decision-making process." The policy includes an accessibility checklist to guard against barriers to participation by "people with disabilities who often have been excluded from participation in public events and forums."

The Council's Public Participation plan, included as Appendix C of the Council's *2030 Transportation Policy Plan*, provides further guidance to ensure that the Council's transportation planning efforts "include a proactive public involvement process." This plan includes steps to:

- Recognize that people "have a stake" in Council decisions
- Make participation meaningful
- Identify and target participants through geographic analysis
- Promote inclusion of underrepresented groups
- Accommodate people with disabilities and Limited English Proficiency (LEP)

The Council attempts to communicate with multiple audiences using multiple tools, including:

- Public hearings
- Open houses
- Public forums
- Citizen advisory committees
- Civic and community meetings
- One-on-one meetings
- Fact sheets
- Brochures and flyers
- Comment cards
- Telephone hotlines
- Cable television
- Internet

The Council's website, www.metrocouncil.org, provides information for citizens on how to become better informed about Council activities and contribute to the decision-making process.

Included is information on how citizens and groups can contact their Council representative, request a speaker, comment on Council actions by telephone or e-mail, and apply to serve on Council advisory committees.

The website also includes the agendas, business items and minutes of the Council and its committees, including those committees providing input and feedback on the Central Corridor light-rail transit project. In May 2008, the Council website began providing live and on-demand streaming of Council meetings, with the archived video indexed by agenda items.

3.0 Fare/Service Adjustments

The Council periodically makes adjustments in transit fares and service levels to keep pace with budget needs, including changes in the performance of revenue streams and increases in operating costs. Some of the ways in which the Council notifies and engages the public during these adjustments include:

- Public notice of Council meetings at which these matters are discussed and decided, with notice provided via the Council's website, "Metro Meeting" notices and official Council bulletin board
- News releases posted online and provided to daily, weekly suburban, and specialty publications, including minority newspapers, as well as electronic media
- Council newsletters, internal and external
- Transit marketing initiatives including on-board newsletter and brochures, bus interior cards and shelter posters
- Formal legal notice, via the State Register
- Public hearings at different times, dates and locations throughout the metro area and central cities, accessible to transit and populations of transit customers affected by fare and service changes, where Council members and staff are available to present the recommended adjustments in language and terms that are culturally sensitive and hear and meet with customers, residents and other stakeholders
- Public comment cards made available at transit stores, on board buses and at public hearings
- Public comment is also taken via fax, writing, recorded phone messages, and email and directed to Council contacts, who review, analyze, summarize, respond to, and document formal comments
- Communications and meetings with other transit providers, local officials, legislators, governor's office, and other stakeholders
- Provides accommodations to people with disabilities, as detailed in Appendix D of the Council's Transportation Policy Plan
- Take reasonable steps to ensure LEP persons have meaningful access to decision making, have opportunities to become involved in the fare-setting process, eg., providing multi-lingual versions of the proposed fare increase and opportunity to submit comments that will be translated, reviewed and entered into the public record.

Program-Specific Reporting Requirements

Collect Demographic Data

Requires collecting and analyzing racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal assistance.
When: After each Decennial Census, Prior to Service Reductions
Lead: Office of Research, Service Development
Council Action/Policy: Maps & Analysis as needed
FTA Circular Pages: V-1

Neither service reductions nor a Decennial Census occurred in 2009 and 2010.

Set Service Standards

Requires the developing quantitative standards for vehicle loads, vehicle headways, on-time performance, distribution of transit amenities, and service availability.
When: One-Time
Lead: Service Development (vehicle load, headways, service availability, distribution of transit amenities)
Transportation (on-time performance)
Council Action/Policy: TPP
FTA Circular Pages: V-3

The current service standards are incorporated as Appendix G of the Council's *2030 Transportation Policy Plan*, and can be found at the following link:

http://www.metrocouncil.org/planning/transportation/TPP/2010/Oct21/Appendix/G_TransitStandards.pdf

Set Service Policies

Requires recipients to adopt system-wide vehicle assignment and transit security policies to guard against disparate impacts.
When: One-time
Lead: Transportation (vehicle assignment)
Transit Police (transit security**)**
Council Action/Policy: TPP
FTA Circular Pages: V-4

Service policies for vehicle assignment and transit security are attached as exhibits.

Evaluate Service and Fare Changes

Requires the evaluation of significant service and fare changes at the planning and programming stages to determine whether the changes have disparate impact. Applies to significant service changes (25% of service hours of route(s) is defined as "significant" by the Metropolitan Council).
When: Fare Changes or Significant Service Changes
Lead: Finance (Fare Changes)
Service Development (Significant Service Changes)
Council Action/Policy: As Needed
FTA Circular Pages: V-5

In 2009 and 2010, the Metropolitan Council undertook one fare change and three service changes requiring public hearings. In each case, an evaluation of potential disparate impact was prepared. Evaluations for the Northstar Commuter Rail fare and service plans, Route 255 elimination, and I-35W & 46th Street Station service plan are attached as exhibits.

Monitor Transit Service

Requires monitoring transit service to compare the level and quality of service provided to predominantly minority areas with service provided in other areas to ensure that the end result of policies and decision making is equitable service.
When: Once every three years (2003, 2006, 2009, …)
Lead: Service Development
Council Action/Policy: Title VI Program
FTA Circular Pages: V-7

In 2009, Metro Transit undertook a complete review of service and facility design and delivery to monitor compliance with established standards and identify potential disparate impacts. There are several areas that are recommended for further review and the review did identify sections of the service design and delivery standards that should be revised for clarity or applicability. The review also generated a series of questions for the FTA that Metro Transit has submitted and is awaiting response on.

Program-Specific Reporting for MPO's

MPO's should have an analytic basis in place for certifying their compliance with Title VI. The report may include a summary of public outreach, LEP plan, procedures for tracking complaints, list of complaints, and the notice to beneficiaries of protection granted to them.
When: Once every four years (2004, 2008, 2012, …)
Lead: EEO Diversity, MTS
Council Action/Policy: Title VI Documentation Regarding Program Update
FTA Circular Pages: II-2, VII-1

This information is not applicable for this report.

Annual Report and Update Questionnaire for Planning Organizations. Planning: Accomplishment Report and Update

A. Monitoring and Review Process:

Describe the planning activities that are performed by the Council.

The Metropolitan Council (www.metrocouncil.org) is the regional planning agency serving the Twin Cities seven-county metropolitan area and providing essential services to the region. The Council works with local communities to provide these critical services:

- operates the region's largest bus system
- collects and treats wastewater
- engages communities and the public in planning for future growth
- provides forecasts of the region's population and household growth
- provides affordable housing opportunities for low- and moderate-income individuals and families
- provides planning, acquisitions and funding for a regional system of parks and trails
- provides a framework for decisions and implementation for regional systems including aviation, transportation, parks and open space, water quality and water management.

Describe the actions taken to promote Title VI compliance regarding planning activities, including monitoring and review processes, and their outcomes or status.
Responses to the this question can be found in other areas of this report.

B. Studies

- Were any studies conducted during the reporting period that provided data relative to minority persons, neighborhoods, income levels, physical environments, and/or travel habits? Yes. Reviews of significant service changes and a fare change were performed using 2000 Census data.

- If so, what type of assistance was provided to ensure that Title VI considerations were included in planning the studies? Year 2000 Census data was used to identify and map predominantly low-income and predominantly minority areas using Title VI guideline definitions. A review of the Northstar fare structure proposal utilized rider survey information to evaluate fare usage trends of low-income and minority riders using Title VI guideline definitions. More information can be found in the attached exhibits.

C. Draft TIPs

- Was a Draft Transportation Improvement Program (TIP) released for public comment during the reporting period? Yes, it was released for 2009 and 2010.

- What efforts were made to notify the public of the draft TIP? See attached exhibits

- How were public comments solicited (written comments, public hearings, etc.)? See attached exhibits

- Was a public hearing held? If so, how many? What efforts were utilized to ensure broad citizen participation in the hearings? See attached exhibits

- Provide a summary of Title VI related concerns and issues raised at the hearings, if any. Describe actions taken by the Title VI Liaison or Coordinator to facilitate and/or address the concerns that were raised. See attached exhibits

D. Other Public Hearings

- Were any other public hearings held during the reporting period? If so, how many? Responses can be found in Guidance on Promoting Inclusive Public Participation section

- What efforts were utilized to ensure citizen participation in the hearings? See exhibits from particular projects

- Were minorities and women, both individually and through their organizations, represented in the citizen participation effort? How many and in what capacity?

Central Corridor LRT Project

In June 2006, the Council approved light-rail transit as the Locally Preferred Alternative (LPA) for improved transit in the Central Corridor along University and Washington Avenues between downtown Minneapolis and downtown St. Paul. In December 2006, the Federal Transit Administration (FTA) granted its approval for the Council to enter preliminary engineering.

In January 2007, the Council approved the Communications and Public Involvement Plan for the project that was developed in consultation with partnering agencies. The objectives of this plan are to:

- Build broad public awareness of and support for the project as an essential means to improve our transportation system and maintain regional competitiveness.
- Identify key community, business, racial and ethnic groups within the corridor and maximize opportunities for public involvement and communication during the design and construction process to promote public ownership of the project.
- Prepare project-area residents, businesses, and commuters for what to expect during construction, listen to their concerns, and develop plans to minimize harmful or disruptive effects.
- Reduce the danger of costly project delays that may jeopardize the construction of the project or certain components.

In developing this plan, the Council and its project partners recognized the need to consider the needs of a diverse population, including those with disabilities, cultural differences, language barriers, and mobility and age related constraints. Based on geographic analysis, staff concluded that:

- Minorities comprise of 44% of the people living within a half-mile of the proposed Central Corridor stations, compared with 18% for the region as a whole.

- Nearly 25% of all households within a half-mile of the proposed stations have incomes below the poverty level, compared with 6.4% of households for the entire region.

- Disproportionately high numbers of corridor residents are transit dependent.

- Some neighborhoods along the corridor have high percentages of homes where a language other than English is spoken; languages include Amharic, Hmong, Khmer, Korean, Oromo, Russian, Spanish, Somali, and Vietnamese.

The plan recognizes the need to use multiple tools to communicate with multiple audiences and engage them in the development of the plan. Rapidly implementing this plan, the Council and project partners:

- Formed a 43-member Community Advisory Committee (CAC) that includes representatives from key neighborhood, racial and ethnic groups. The CAC was retired in 2010 based on community feedback to create neighborhood level advisory committees focused on construction.,

- Formed a Business Advisory Committee (BAC) with representatives from businesses within the corridor. The BAC was retired in 2010 based on community feedback to create neighborhood level advisory committees focused on construction.,

- In 2009 created Station Art Committees that represented the diverse community to work with the artist to develop station art that reflects the community. In 2011, Station Art Committees were formed for Hamline, Victoria and Western Stations that were added to project scope in early 2010,

- Hired an eight-member outreach staff, whose members speak languages including Hmong, Somali, Swahili, Spanish, French, Bantu, and American Sign Language.

- Created neighborhood level Construction Communication Committees that include at least 2 residents, 2 businesses, a transit user and a representative of the ADA community. Ethnic business organizations and community groups were invited to submit nominations to the committee. Purpose of these committees is to meet regularly with the contractor to provide feedback and develop solutions to construction related issues.

- Created a Contractor Incentive Program that awards the contractor with incentives for working with the community and minimizing impacts; the members of the CCC's convene quarterly to evaluate the contractor and determine how much of the available award they should receive. Community working group was formed to develop the contractor incentive evaluation form. The working group represented the diverse community including ethnic businesses, ADA community, minority residents and small businesses.

- Established a website that includes project fact sheets, maps, frequently asked questions (FAQs), timelines, and committee agendas, minutes, and presentations. The website includes information about the DBE program and highlights community activities.

- Established a 24-hour construction hotline for people to call with questions and concerns. The hotline is available in other languages including Somali, Hmong, Vietnamese and Spanish.

- Worked with the Business Resources Collaborative to develop a business resources packet. Packets were translated in Somali, Vietnamese, Hmong and Spanish.

- Prepared informational brochures, fact sheets, and PowerPoint presentations.

E. Upcoming Year

- Describe plans for the upcoming year, including any significant problem areas to focus on and plans for approaching them.

- Metro Transit may face a funding shortfall in 2011 which would require a fare increase and/or service reduction to resolve. Both of these would require a full public participation process. These processes will follow best practices.

Exhibits

Exhibits – Section L of Categorical Exclusion and Environmental Justice for recent construction projects

Exhibit – TPP Federal Requirements Environmental Justice

Figure 11-4: A successful transportation plan will benefit all of the region's residents

routes, transit beyond the ADA required distance (within ¾ mile of regular-route transit), dial-a-ride restructuring, transportation coordinators, van programs, technology improvements, and auto ownership programs, have been funded through the FTA Job Access and Reverse Commute (JARC) and New Freedoms programs.

Environmental Justice

Executive Order 12898 requires all federal agencies to define environmental justice as part of their mission and to address any adverse health and environmental effects of their programs on traditionally underserved minority and low-income populations. In response, the U.S. Department of Transportation issued an Order on Environmental Justice in Minority and Low-Income Populations, which establishes a process for integrating the goals of environmental justice into federally funded transportation activities.

Further guidance for incorporating environmental justice into the metropolitan transportation planning and implementation process was developed by the Federal Highway Administration and Federal Transit Administration. As the Council conducts federally funded plans, programs, and projects, it must comply with these orders and guidance. This update of the *Transportation Policy Plan* details the Council's compliance with the environmental justice directives within the framework of existing requirements, including the National Environmental Policy Act (NEPA), Title VI of the Civil Rights Act of 1964, SAFETEA-LU, and the Americans with Disabilities Act (ADA).

The *Transportation Policy Plan* addresses environmental justice by providing a location analysis of low-income and minority populations in relation to the planned investments in the metropolitan transportation system. This analysis includes a discussion of whether disproportionate impacts were identified, the extent and magnitude of those impacts, and how the impacts will be avoided or mitigated, if practical.

Specific strategies and programs employed by the Council to improve the transportation system to the benefit of low-income and minority populations are also described. Finally, Appendix C to the *Transportation Policy Plan* includes a detailed discussion of the public participation process, including the methods employed to involve traditionally under-served populations. The Council's process ensures that members of low income and minority communities are provided with opportunities to participate in the transportation planning process, including the development of the *Transportation Policy Plan*.

Investment Strategies Related to Low-Income and Minority Populations

The impacts of transportation improvement projects on low-income and minority populations are difficult to analyze under environmental justice at a system/policy level. Those impacts will be analyzed on an individual project basis as prescribed under federal guidance. However, it is possible to describe the impacts of these investments at a larger scale.

The planned improvements to the Regional Highway System illustrate regional priorities as established by the Council. These priorities stress the preservation and maintenance of the existing highway system over expansion of the system. The relationship between the locations of low-income and minority populations (as shown in the 2000 Census) and planned investments in the transportation system are shown on Figures 11-5 through 11-8. Low-income populations are concentrated in relatively small pockets near the downtowns of Minneapolis and St. Paul. Outside of the two central cities very few census tracts contain significant (greater than seven percent) percentages of residents in poverty. The highest proportion of minority residents correlates significantly with the locations of low-income residents - concentrated primarily in the core area - but moderate levels of minority residents are also found in inner-ring suburbs, such as the Brooklyn Park/Brooklyn Center area and Richfield/Bloomington.

The new construction and expansion projects planned for in the *Transportation Policy Plan* should not create disproportionate adverse effects on low-income or minority populations, and in fact should create a benefit to them in the form of improved mobility and expanded transit service. Historically, the greatest harm done to minority and low-income populations as a result of transportation system investment decisions was caused by new highway construction or realignment projects that encroached upon, divided or even displaced neighborhoods. Mitigation techniques will be employed in all projects to minimize and mitigate the construction impacts on all affected populations.

Many of the Metropolitan Council's strategies and programs are aimed at improving and preserving the transportation system in the core area of the Twin Cities, especially through significant investments in the transit system. As Figures 11-5 through 11-8 illustrate, the core area is home to a significant portion of the region's low-income and minority residents. The focus of investment in this document's Transit System Plan is on transit markets and their potential for transit usage. Because the core area (Market Area I, as defined in Chapter 4) is where the greatest number of people who are transit dependent reside, the focus of investment will continue to be on the core area. As stated in Chapter 7, the Council supports the provision of sufficient transit services and alternative modes of transportation in Market Area I to allow its residents to live without the need to drive an automobile.

Key Transit System Plan improvements in the core area include faster service (with dedicated transit-ways, signal preemption for buses and limited stop operation), expanded service frequencies (15-minute frequencies for 18 hours a day), and enhanced security and pedestrian amenities within one-quarter mile of stations and stops. Other investments and policies of this plan that will benefit core-area minority and low-income populations include continued expansion of transit centers and stations, continued marketing of regional transit and rideshare services and incentives, enhanced safety and security, and continued development of the regional network of transitways on dedicated rights of way and bus rapid transit.

The transit system will also serve as a magnet for other types of investments, such as new commercial and residential development, that will benefit those populations. Additional investment in Access to Jobs programs will provide increased economic and career opportunities for low-income residents, many of whom do not have access to a private vehicle. Transit-oriented development policies will promote land

uses that improve access to transit, make bicycle and pedestrian travel safer and more convenient, and create common open and green spaces.

After analyzing the distribution of programs and projects identified in this *Transportation Policy Plan*, and the location of low-income and minority populations in the region, it can be concluded that any benefits or adverse effects associated with implementing the plan are not distributed to these populations in a manner significantly different than to the region's population as a whole. During the project development process, individual programs and projects will be further evaluated for potential adverse effects on these population groups in order to make a determination of no adverse effects or to identify mitigation for any adverse effects that are found.

Americans With Disabilities Act (ADA)

The Americans With Disabilities Act requires that all pedestrian facilities and transit facilities that are constructed be accessible to users with all levels of functional ability. Policy 16 of the Transportation Policy Plan assures that this goal is pursued for the entire transit system including pedestrian access to that system. Chapter 9 also includes a discussion of the requirement that all owners of pedestrian facilities should strive to make them accessible and that all public entities with 50 or more employees are required by law to develop an ADA Transition Plan that will detail steps to make their public rights of way accessible.

Figure 11-5: Population in Poverty & Major Plan & TIP Projects

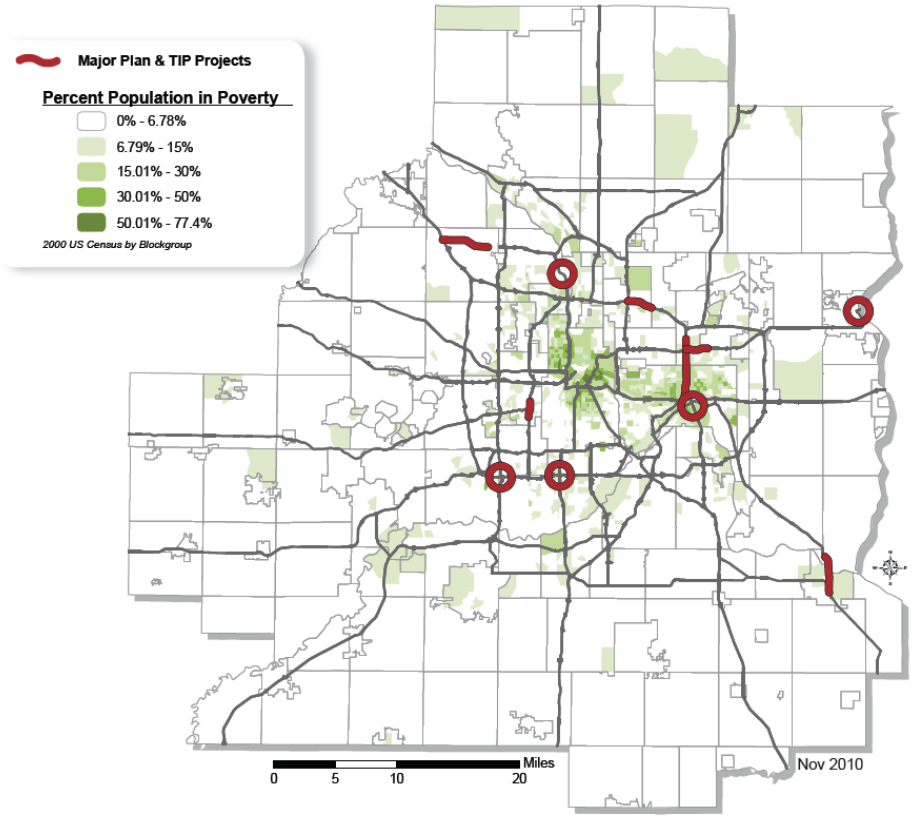


Figure 11-6: 2000 Minority Populations & Major Plan & TIP Projects

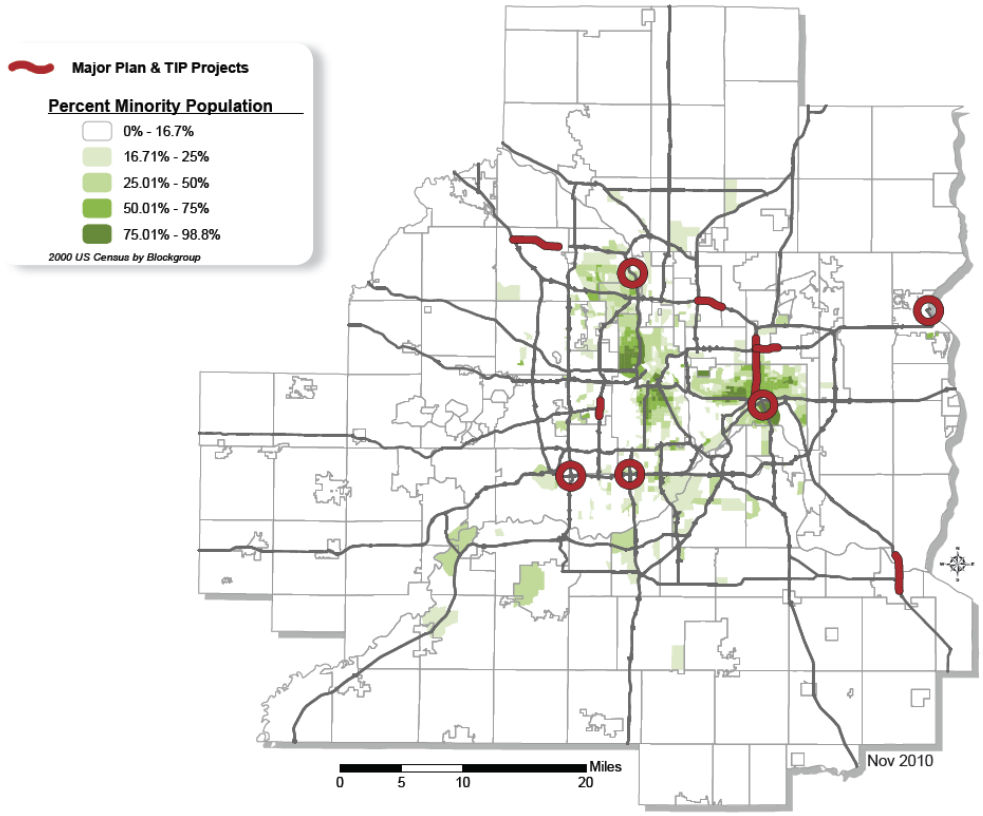
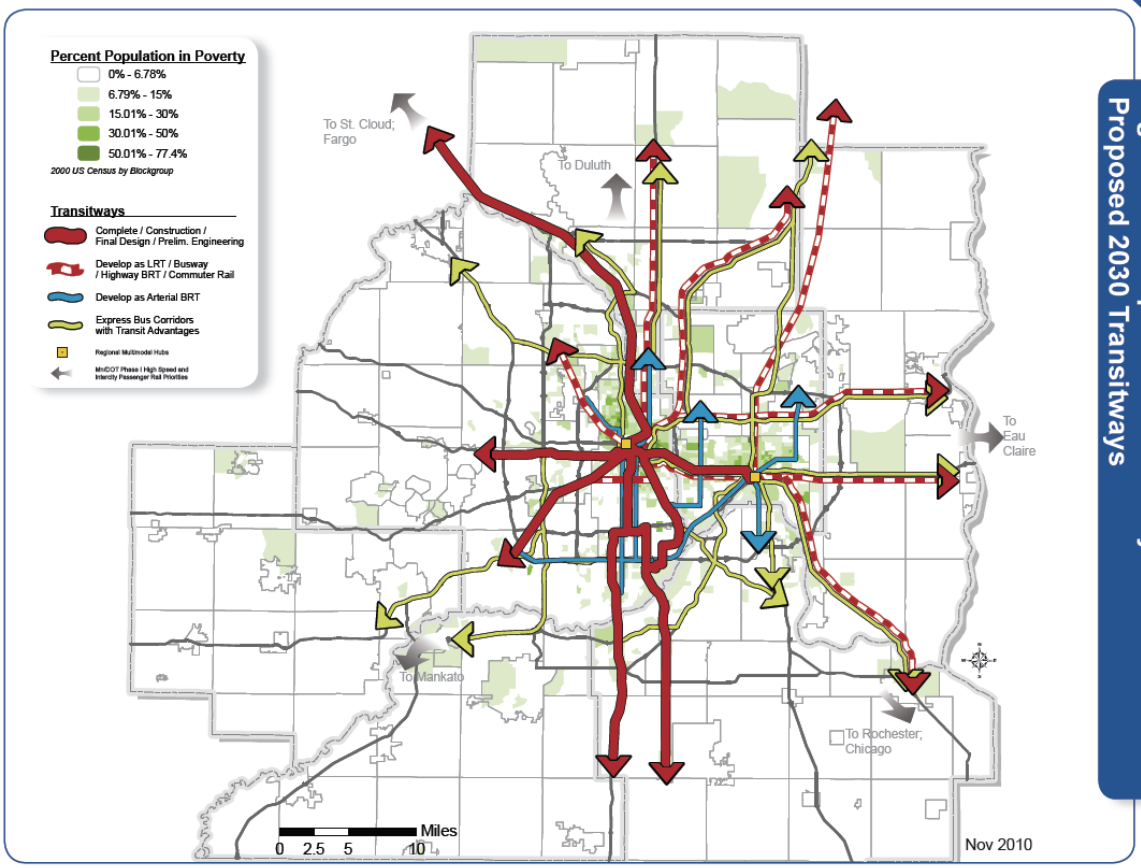


Figure 11-7: Population in Poverty & Proposed 2030 Transitways



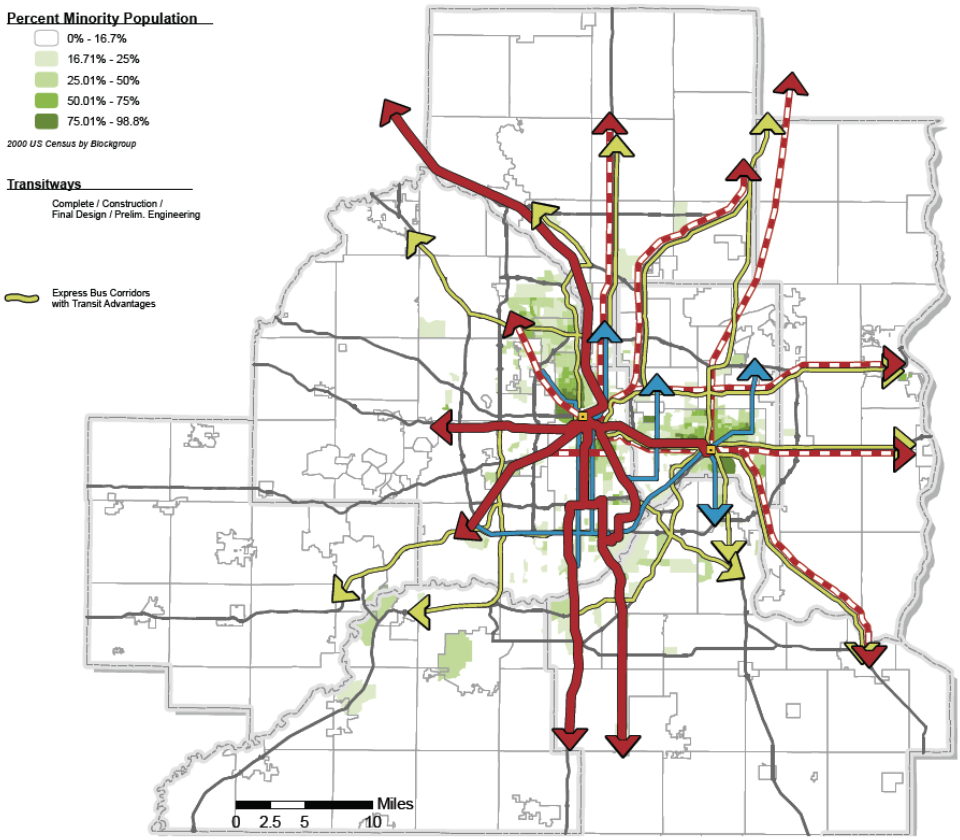

Percent Minority Population
0% - 16.7%
16.71% - 25%
25.01% - 50%
50.01% - 75%
75.01% - 98.8%
2000 US Census by Blockgroup
Transitways
Complete / Construction / Final Design / Prelim. Engineering
Express Bus Corridors with Transit Advantages
Miles
0 2.5 5 10

Exhibit – Kenrick Ave Park & Ride

Date _____10/22/08_____

Grant Applicant __Metropolitan Council___1305___
Project – Kenrick Avenue Park and Ride (I-35 in Lakeville)

INFORMATION REQUIRED FOR PROBABLE CATEGORICAL EXCLUSION (SECTION 771.117(d))

_____A. DETAILED PROJECT DESCRIPTION:

The proposed project is to construct a 500 space parking structure on land adjacent Interstate 35 in Lakeville, MN to serve as a park and ride. The park and ride would be located on what is currently a park and pool lot on the east side of I-35, north of CSAH 5/50. There will be potential to expand the size of the ramp (250 spaces) as an add-alternate for this project or in the future if demand for parking spaces warrants.

A portion of this proposed project includes design and construction of bus-only access ramps to and from I-35. These ramps would be very similar to the ramps that existed as part of the weigh station formerly operated at this site. The bus-only ramps would provide quick and easy access to I-35 for buses, keeping bus service smooth and operating time to a minimum. A physical barrier will be placed to keep autos from accessing the ramps from the park and ride. In conjunction with this Categorical Exclusion, an Interstate Access Request (IAR) will be submitted for review; FHWA must approve the IAR. Should the IAR not be approved, buses will gain access to the park and ride via local roadways. The FHWA format of Categorical Exclusion (focusing on the highway ramps versus the parking structure) will be submitted to FHWA in conjunction with the IAR.

The proposed project is part of the larger Urban Partnership Agreement (UPA) project. One goal of the UPA is to provide additional park and ride spaces in the I-35 corridor; constructing a park and ride structure in Lakeville aids in meeting this goal.

_____B. LOCATION (INCLUDING ADDRESS): Attach a site map or diagram, which identifies the land uses and resources on the site and the adjacent or nearby land uses and resources. This is used to determine the probability of impact on sensitive receptors (such as schools, hospitals, residences) and on protected resources.

The project is located in Lakeville, MN, north of CSAH 5/50 on the east side of I-35 at a former highway weigh station site. The site for the proposed expansion is located at an approximate address of 16701 Kenrick Ave, Lakeville, MN 55044. A legal description for the property is not readily available. The right of way is contained in section 1, township 114, and range 21 in Dakota County.
See Figure 1A and Figure 1B for a graphic depiction of the project location and nearby land uses.

_____C. METROPOLITAN PLANNING AND AIR QUALITY CONFORMITY: Is the proposed project "included" in the current adopted MPO plan, either explicitly or in a grouping of projects or activities? What is the conformity status of that plan? Is the proposed project, or are appropriate phases of the project included in the TIP? What is the conformity status of the TIP?

This project is consistent with the Metropolitan Council Transportation Policy Plan and the Transportation Air Quality Control Plan (TAQCP) which is a supplement to the TPP. The entire UPA project of which this project is part, was amended into the 2007 TIP/STIP effective 10/25/2007 and conforms to the TPP. The MPO Twin Cities area is a CO Maintenance area and transit projects are exempt from regional analysis.

_____D. ZONING: Description of zoning, if applicable, and consistency with proposed use.

According to the 2005 Land Use Plan (Figure 1B), current land use at the project area is Major Highway. Nearby uses include Institutional (MnDOT Truck Station), Undeveloped, and Mixed Use Residential. Use of this area for a park and ride and bus-only exit ramps to the highway is not in conflict with current land use and no change in zoning is necessary.

_____E. TRAFFIC IMPACTS: Describe potential traffic impacts; including whether the existing roadways have adequate capacity to handle increased bus and other vehicular traffic.

Two traffic studies have been performed to analyze the traffic impacts of the proposed park and ride facility (both reports attached). The first traffic study was prepared for the City of Lakeville by SRF Consulting Group to study the impacts of a 500 parking stall structure on the local roadways, focusing mainly on CSAH 5/50 intersections. The results of this study showed that traffic generated by the park and ride "would result in generally acceptable overall LOS under year 2015 build conditions for the morning and afternoon peak hours." This traffic study pointed out two improvements that could be made jointly with the City of Lakeville, Dakota County and/or MnDOT to improve LOS. These two improvements would have also been recommended for the no-build condition.

The second traffic study was prepared for Metro Transit by SRF Consulting Group to analyze traffic operations in the vicinity of the proposed park and ride if the additional 250 parking stalls were constructed. This study also included consideration for pedestrian movement along Kenrick Avenue and access to the park and ride. Intersections on County Rd 46 (to the north of the proposed park and ride) were also analyzed. Results of this traffic study recommended various improvements to the park and ride site design and to the local infrastructure that could improve the level of service and safety of the area. The site improvements that increase safety (such as sight distance) will be accommodated in the design. Recommended improvements to local infrastructure will be considered and discussed with the City of Lakeville and MnDOT. The final traffic report was not available to me at the time of CE submission. Please request if you would like to review.

An Interstate Access Request (IAR) for the bus-only access ramps to I-35 has been prepared and will be sent to the FHWA for review and approval. A copy of the IAR is being sent with this

CE as an attachment, for information only. Documentation of the FHWA approval of the IAR will be provided to FTA once received (and the updated copy of the IAR if any changes are made as a result of FHWA review).

_____F. CO HOT SPOTS: If there are serious traffic impacts at any affected intersection, and if the area is nonattainment for CO, demonstrate that CO hot spots will not result.

This project does not involve or affect the short list of 3 MPCA monitored locations or the top 7 intersections, thus no hot spot analysis is required.

_____G. HISTORIC RESOURCES: Describe any cultural, historic, or archaeological resource that is located in the immediate vicinity of the proposed project and the impact of the project on the resource. SHPO PROCESS

SHPO was submitted project information and responded that “no historic properties listed on or eligible for the National Register of Historic Places will be affected by the proposed project” in a letter dated July 15, 2008 (enclosed).

_____H. NOISE: Compare the distance between the center of the proposed project and the nearest noise receptor to the screening distance for this type of project in FTA's guidelines. If the screening distance is not achieved, attach a "General Noise Assessment" with conclusions.

Screening distance is achieved (225 feet) between the parking structure and any noise receptor. Note that the assumptions made in the FTA screening distance guidelines account for more vehicles than this project will create space for, which provides further assurance that this project meets or exceeds the guidelines for noise screening.

The access road for buses to the parking structure is greater than 100 feet from the residential noise receptor of the mobile home park to the south of the proposed park and ride. 100 feet is the screening distance for access roads as guided by the FTA.

A General Noise Assessment is not required.

_____I. VIBRATION: If the proposed project involves new or relocated steel tracks, compare the distance between the center of the proposed project and the nearest vibration receptor to the screening distance for this type of project in FTA's guidelines. If the screening distance is not achieved, attach a "General Vibration Assessment" with conclusions.

This project is considered a “bus project” and the project boundary/property line is 100 feet or greater from any vibration receptor (100 feet is the screening distance as noted in FTA guidance).

A General Vibration Assessment is not required.

_____J. <u>ACQUISITIONS & RELOCATIONS REQUIRED:</u> Describe land acquisitions and displacements of residences and businesses.

The land needed for the proposed park and ride parking structure in Lakeville is currently MnDOT property/right of way. A zero-dollar reconveyance of the land from MnDOT to the Metropolitan Council is underway. This reconveyance only includes the land for the parking structure and local access roads. The land required for the bus-only access ramps to the highway will not be transferred to Met Council, but remain in MnDOT control (maintenance agreement will cover responsibilities for the bus ramps).

Current use of the site is for commuters to park and carpool to work. Users of this parking lot will be relocated as needed during construction of the facility to a nearby parking lot under an agreement between the property owner and Met Council/Metro Transit.

_____K. <u>HAZARDOUS MATERIALS:</u> If real property is to be acquired, has a Phase I site assessment for contaminated soil and groundwater been performed? If a Phase II site assessment is recommended, has it been performed? What steps will be taken to ensure that the community in which the project is located is protected from contamination during construction and operation of the project? State the results of consultation with the cognizant State agency regarding the proposed remediation?

A Phase I environmental site assessment (ESA) has been performed for the proposed park and ride site in Lakeville. Recommendation from the Phase 1 ESA was to further investigate the recognized environmental condition (REC) at the site. The REC was identified as “Dakota County Dump #4022” and was anticipated to consist of construction debris. The Phase I ESA is attached to this CE document.

A Phase II ESA was performed to assess the REC as mentioned above. 20 test pits for soil investigation were dug on site and multiple lab tests were performed. The results of these tests indicate that there is no need for a Response Action Plan or Construction Contingency Plan because the lab tests did not indicate an environmental risk for this land use during excavation, grading, or other construction activities (no reportable releases). The Phase II ESA is attached to this CE document.

_____L. <u>COMMUNITY DISRUPTION AND ENVIRONMENTAL JUSTICE:</u> Provide a socio-economic profile of the affected community. Describe the impacts of the proposed project on the community. Identify any community resources that would be affected and the nature of the effect.

The City of Lakeville is located in the southernmost part of the 7 county region subject to the MPO taxing district. This is a fast growing area with a population estimated at 53,829 for 2007 or an increase of 23% over the 2000 Census population of 43,128. As of the census of 2000, there were 43,128 people, 13,609 households, and 11,526 families residing in the city. The population density was 1,192.4 people per square mile (460.4/km²). There were 13,799 housing units at an average density of 381.5/sq mi (147.3/km²). The racial makeup of the city

was 94.26% White, 1.28% African American, 0.38% Native American, 2.01% Asian, 0.02% Pacific Islander, 0.76% from other races, and 1.28% from two or more races. Hispanic or Latino of any race were 1.94% of the population. The need to provide transit service to the fast growing outlying areas has been planned for in the Transportation Policy Plan and will not remove resources from projects or negatively impact any projects in areas with larger minorities or low-income populations. The proposed project will not have adverse human health or environmental effects to any minority or low income populations.

_____M. <u>USE OF PUBLIC PARKLAND AND RECREATION AREAS:</u> Indicate parks and recreational areas on the site map. If the activities and purposes of these resources will be affected by the proposed project, state how.

The project will not affect any Public Parkland or Recreation areas. Refer to Figure 1B for Land Use.

_____N. <u>IMPACTS ON WETLANDS:</u> Show potential wetlands on the site map. Describe the project's impact on on-site and adjacent wetlands.

This project does not impact any wetland area. There are no wetlands on site or adjacent to the project area. Please see Figure 2 attached.

_____O. <u>FLOODPLAIN IMPACTS:</u> Is the proposed project located within the 100-year floodplain? If so, address possible flooding of the proposed project site and flooding induced by proposed project due to its taking of floodplain capacity.

The project area is not within the 100-year floodplain. The area is classified as FEMA Flood Zone X (outside of the 1-percent annual change floodplain). Please refer to Figure 3 attached.

_____P. <u>IMPACTS ON WATER QUALITY, NAVIGABLE WATERWAYS, & COASTAL ZONES:</u> If any of these are implicated, provide detailed analysis.

The project does not involve the physical or hydrologic alteration, dredging, filling, stream diversion, outfall structure, diking, and impoundment of any surface waters such as a lake, pond, wetland, stream or drainage ditch. The entire project falls within the Black Dog Watershed Management Organization (BDWMO) and the City of Lakeville. The Black Dog WMO and the City of Lakeville have a Watershed Management Plan with rules and regulations governing water resources. Black Dog WMO and the City of Lakeville rules and policies will be followed when designing water resource features that are associated with the site improvements.

_____Q. <u>IMPACTS ON ECOLOGICALLY-SENSITIVE AREAS AND ENDANGERED SPECIES:</u> Describe any natural areas (woodlands, prairies, wetlands, rivers, lakes, streams, designated wildlife or waterfowl refuges, and geological formations) on or near the proposed project area. If present, state the results of consultation with the state

department of natural resources on the impacts to these natural areas and on threatened and endangered fauna and flora that may be affected. DNR PROCESS

The Minnesota Department of Natural Resources (DNR) has been contacted and they have determined that the project will have no affect on sensitive areas or endangered species. Please see the attached DNR letter dated June 20, 2008.

_____R. IMPACTS ON SAFETY AND SECURITY: Describe the measures that would need to be taken to provide for the safe and secure operation of the project after its construction.

The following measures will be implemented to secure the facility:
Installing adequate lighting
Placing closed-circuit cameras in selected areas
Installation of fire protection systems
Separation of vehicles and pedestrians from bus-only access ramps

_____S. IMPACTS CAUSED BY CONSTRUCTION: Describe the construction plan and identify impacts due to construction noise, utility disruption, debris and spoil disposal, air and water quality, safety and security, and disruptions of traffic and access to property.

Erosion and sedimentation on all exposed soils within the project will be minimized by using the appropriate Best Management Practices (BMPs) during construction. BMPs greatly reduce construction-related sedimentation and help to control erosion and runoff. Ditches, dikes, silt fences, sediment basins, and temporary seeding will be used as temporary erosion control measures during construction grading. In accordance with state and federal regulations, detailed drainage plans and erosion control plans for the project will be submitted as part of the application for a National Pollutant Discharge Elimination System (NPDES) permit, to be obtained from the MPCA prior to construction.
The proposed project would not generate any excessive odors during construction. Noise and dust normal to construction would occur as a result of this project. Construction noise would be in accordance with City ordinances. Construction equipment would be fitted with mufflers that would be maintained throughout the construction process. Dust generated during construction would be minimized through standard dust control measures such as watering. After construction is complete, dust levels are anticipated to be minimal because all soil surfaces would be in permanent cover (i.e. pavement or grassed areas).

The action described above meets the criteria for a NEPA categorical exclusion (CE) in accordance

with 23 CFR Part 771.117 _____.

Applicant's Environmental Reviewer	**Date**
FTA Grant Representative	**Date**

Exhibit – Hiawatha LRT Operations and Maintenance Facility

Date _____

Grant Applicant __Metropolitan Council___1305___

INFORMATION REQUIRED FOR PROBABLE CATEGORICAL EXCLUSION (SECTION 771.117(d))

__X___A. DETAILED PROJECT DESCRIPTION:

The proposed project provides for the expansion of the existing Hiawatha LRT Operations and Maintenance (O&M) facility located at 1810 Franklin Avenue in Minneapolis, MN. The expanded facility is required to support the storage and maintenance of the three-car train program to accommodate high ridership on the Hiawatha LRT line. The Met Council/Met Transit is acquiring additional light rail vehicles. These vehicles will start to be delivered to the O&M site in the first half of 2012. The proposed expansion will increase train car storage, shop space and maintenance capability of Met Transit for expanded light rail operations.

Currently, the storage barn can accommodate 24 vehicles and there are 27 vehicles in our fleet. The three-car train program will ultimately add 20 vehicles to the Hiawatha line fleet, making the total number of vehicles 44. By expanding the storage barn to twice its existing size, 48 vehicles will be able to be stored. The additional vehicles that will be added to the fleet will also require additional space for vehicle maintenance and parts storage.

Principal project improvements include a 75-foot wide by 640-foot long storage barn immediately adjacent to the west side of the existing facility and a 75-foot wide by 160-foot long parts and shop facility located at the northeast corner of the existing facility as shown on the attached aerial photograph. A 325-foot track extension would extend from the north end of the new storage barn as would a new 425-foot track extension from the south end of the new storage barn to connect the four new storage tracks to the existing site track alignments. Also included will be a new shop lift within the existing facility as shown on attached Figure 1.

__X___B. LOCATION (INCLUDING ADDRESS): Attach a site map or diagram, which identifies the land uses and resources on the site and the adjacent or nearby land uses and resources. This is used to determine the probability of impact on sensitive receptors (such as schools, hospitals, residences) and on protected resources.

All of the proposed work would be contained within the existing facility site located at 1810 Franklin Avenue, Minneapolis, 55404. The existing project site is bounded on the north By Interstate 94, on the west by Hiawatha Avenue, on the south by Franklin Avenue and on the east by Cedar Avenue as shown on the attached Site Map and aerial photograph.

___X__C. METROPOLITAN PLANNING AND AIR QUALITY CONFORMITY: Is the proposed project "included" in the current adopted MPO plan, either explicitly or in a

grouping of projects or activities? What is the conformity status of that plan? Is the proposed project, or are appropriate phases of the project included in the TIP? What is the conformity status of the TIP?

This project is consistent with the Metropolitan Council 2010-2013 Transportation Improvement Plan, Transportation Policy Plan and the Transportation Air Quality Plan (TAQCP), which is a supplement to the TPP. The MPO Twin Cities area is a CO Maintenance area and transit projects are exempt from regional analysis. The 2010-2013 Transportation Improvement Program conforms to the relevant sections of the Federal Conformity Rule and to the applicable sections of Minnesota State Implementation Plan for air quality.

___X__D. <u>ZONING:</u> Description of zoning, if applicable, and consistency with proposed use.

The existing project site and adjacent area for the proposed facility expansion is identified (October 16, 2009) as a Primary Zoning District –Industrial 12. This designation is compatible with the proposed facility expansion.

__X___E. <u>TRAFFIC IMPACTS:</u> Describe potential traffic impacts including whether the existing roadways have adequate capacity to handle increased bus and other vehicular traffic.

The proposed improvements would have no appreciable effect on road traffic outside of the project site. All proposed improvements are confined within the existing site and would not result in significantly increased employment and related traffic into and out of the site.

__X___F. <u>CO HOT SPOTS</u>: If there are serious traffic impacts at any affected intersection, and if the area is nonattainment for CO, demonstrate that CO hot spots will not result.

The project area (Hennepin County, MN) is not classified as nonattainment for CO, but is considered a maintenance area. According to CFR 93.126, the proposed project does not impact regional emissions and does not require local carbon monoxide impact analysis. This project is considered exempt from regional analysis in the 2010-2013 TIP.

In addition, the proposed project is not located near any of the three MPCA metro area CO monitoring locations or the top seven intersections in the area. As the proposed facility expansion does not involve or affect any of these locations, a CO hot spot analysis is not required.

_____G. <u>HISTORIC RESOURCES:</u> Describe any cultural, historic, or archaeological resource that is located in the immediate vicinity of the proposed project and the impact of the project on the resource.

In a letter dated April 5, 2010 (attached), the State Historic Preservation Office has concurred that “no historic properties listed on or eligible for the National Register of Historic Places will be affected by the proposed project.”

__X___H. <u>NOISE:</u> Compare the distance between the center of the proposed project and the nearest noise receptor to the screening distance for this type of project in FTA's guidelines. If the screening distance is not achieved, attach a "General Noise Assessment" with conclusions.

The proposed 70-foot westward expansion of the storage barn on the west side of the existing facility is in the direction of the existing multi-lane Hiawatha Avenue. No noise receptors are currently located or will ever be located between the proposed expansion and Hiawatha Avenue. Residential and commercial development is located east of Hiawatha Avenue (See aerial photo of site) or approximately 400 feet east of the nearest proposed site improvement. However, Hiawatha Avenue in this area is approximately 10 to 15 feet higher than the project site. Thus, any minor increase in rail traffic noise from the closer proximity of the four added tracks would be muted by the high embankment and existing traffic noise on Hiawatha Avenue. Similarly, the addition of the Parts Storage and Shop facility in the northeast corner of the site is well within the eastern limits of the existing facility. As this new addition will be totally enclosed, no increase in noise levels to the community gardens or developments beyond Cedar Avenue is expected.
The Interstate 1-94 roadway is located immediately to the north of the project site. Cedar Avenue is located from 150 to 450 feet to the east of the existing facility. A public garden space is located between Cedar Avenue and the northern portion of the facility. Noise measurements taken in March 2010 at both the garden site and on Cedar Avenue in support of this proposed expansion indicate that with or without train movements on the site, the controlling noise levels were clearly dominated by heavy truck traffic on I-94 and mixed vehicle traffic on Cedar Avenue. Mixed commercial development including a tavern is located east of Cedar Avenue. A child care center is located yet further east (approximately 500 feet east of the site) between Cedar Avenue and Minnehaha Avenue. Again, noise measurements taken on Cedar Avenue show that noise levels at these potential receptors are affected by traffic noise on I-94, Cedar Avenue and Minnehaha Avenue and not by train movements or shop operations at the site.

___X__I. <u>VIBRATION:</u> If the proposed project involves new or relocated steel tracks, compare the distance between the center of the proposed project and the nearest vibration receptor to the screening distance for this type of project in FTA's guidelines. If the screening distance is not achieved, attach a "General Vibration Assessment" with conclusions.

The proposed project will involve construction of short sections of new steel tracks into and out of the new storage barn along the west side of the existing facility. No vibration receptors are or will be located between these new track segments and Hiawatha Avenue on the west. Similarly, as recreational bike trail, a stormwater ponding area and the community gardens are located east of the existing facility. As the proposed tracks exiting the new storage barn will return to the original site track alignments before these adjacent features, no additional vibration impacts would be expected.

___X__J. <u>ACQUISITIONS & RELOCATIONS REQUIRED:</u> Describe land acquisitions and displacements of residences and businesses.

No land acquisition will be required for this project as the proposed improvements are well within the limits of the existing site.

___X__K. <u>HAZARDOUS MATERIALS:</u> If real property is to be acquired, has a Phase I site assessment for contaminated soil and groundwater been performed?
If a Phase II site assessment is recommended, has it been performed? What steps will be taken to ensure that the community in which the project is located is protected from contamination during construction and operation of the project? State the results of consultation with the cognizant State agency regarding the proposed remediation?

No real property will be acquired for this expansion project that will entirely be accomplished within existing project limits. However, it is expected that excavation work for the storage barn footings and new track beds may encounter contaminated soils that may have been returned to the original footing excavations or in contaminated "hotspots" that may not have been fully excavated or otherwise disturbed during the original project grading. The November 2000 Contingency Plan for Environmental Issues developed in support of the existing project, documented Phase II trenching and borings which documented some toxic metal and other soil contaminants in the general area of the proposed expansion improvements. However, it is believed that much of these contaminated soils were removed from the site, or in isolated cases placed back in existing utility building footing excavations during construction of the existing project.

It is believed that site remediation provisions contained in the 2000 Voluntary Response Action Plan (VRAP) and Site Contingency Plan for the existing project remain applicable to the proposed expansion project. Implementation of these plans which included provisions for onsite monitoring of all new excavation work, will be required to identify, sample, test, temporarily store and properly dispose of any contaminated materials found. Proposed application of the existing VRAP and Site Contingency Plan to the proposed facility expansion work has been discussed with a Minnesota Pollution Control Agency staff member to seek concurrence to this approach.

Based on recommendations from the MPCA, and addressing their concerns raised on the draft document, Met Transit prepared Addendum No. 2 to the VRAP and Site Contingency Plan which addresses concerns of the MPCA regarding soil sampling prior to construction and site contingency provisions in the event contamination is found during excavation activities and commits Met Transit to incorporation of Addendum No. 2 into project contract documents. The MPCA has indicated their concurrence with this proposed site monitoring approach by e-mail dated June 16, 2010, attached.

___X__L. <u>COMMUNITY DISRUPTION AND ENVIRONMENTAL JUSTICE:</u> Provide a socio-economic profile of the affected community. Describe the impacts of the proposed project on the community. Identify any community resources that would be affected and the nature of the effect.

The only community resource that was affected by the original/existing project was the community gardens area currently located immediately east of the existing project site. While not directly impacted by project construction or operations, this site likely is subject to sporadic low noise levels from existing operations. However, these noise levels are muted by existing traffic noise on Interstate 94 located immediately to the north of the gardens. Project induced levels are not expected to materially increase with the addition of additional train movements along existing tracks alongside the existing building.

__X___M. <u>USE OF PUBLIC PARKLAND AND RECREATION AREAS:</u> Indicate parks and recreational areas on the site map. If the activities and purposes of these resources will be affected by the proposed project, state how.

No public parklands or recreational facilities are located within or immediately adjacent to the project site. The existing community gardens are shown on the attached aerial site photograph and site plan. As noted in item L above, this site will not be affected by the proposed improvements.

-X___N. <u>IMPACTS ON WETLANDS:</u> Show potential wetlands on the site map. Describe the project's impact on on-site and adjacent wetlands.

As shown on the attached wetland map, no wetlands are located within or immediately adjacent to the project site and thus will not be impacted by the proposed improvements.

X__O. <u>FLOODPLAIN IMPACTS:</u> Is the proposed project located within the 100-year floodplain? If so, address possible flooding of the proposed project site and flooding induced by proposed project due to its taking of floodplain capacity.

A floodplain map is attached, showing the project area is not within the 100-year floodplain. The area is classified as FEMA Flood Zone X (outside of the 1-percent annual change floodplain). This project will not impact a floodplain.

___X__P. <u>IMPACTS ON WATER QUALITY, NAVIGABLE WATERWAYS, & COASTAL ZONES:</u> If any of these are implicated, provide detailed analysis.

The proposed project will have no impact on surface or groundwater quality, navigable waterways or coastal zones as none of the latter are located on or near this site. Erosion control measures will be taken during project construction to control surface runoff and sedimentation.

___X__Q. <u>IMPACTS ON ECOLOGICALLY-SENSITIVE AREAS AND ENDANGERED SPECIES:</u> Describe any natural areas (woodlands, prairies, wetlands, rivers, lakes, streams, designated wildlife or waterfowl refuges, and geological formations) on or near the proposed project area. If present, state the results of consultation with the state department of natural resources on the impacts to these natural areas and on threatened and endangered fauna and flora that may be affected.

By letter dated April 14, 2010, (see attached letter) the Minnesota Department of Natural Resources (DNR) responded to a request for review and comment on the proposed project. The DNR response questioned (information provided by Met Transit) the pertinent land section in which the project lies but did provide their review of the precise project area. The DNR review response for the project site noted their query of the Natural Heritage Information System regarding to determine if any rare species or sensitive are known to occur within an approximate one-mile radius of the proposed project. Overall, the DNR does "not believe the proposed project will negatively affect any known occurrences of rare features."

The results of that database query are documented in the attached Index Report of records contained in the rare features database. In summary, this query indicates a 2009 sighting of a Peregrine Falcon in Section 26 (within which the project area is contained) and adjacent section 25. The query also indicated a 1988 sighting of an Eastern Pipistrelle. More recent sightings of invertebrates, including the Spike and Wartyback were observed during the 200-2007 period in Section 25 through which the Mississippi River traverses. While the latter two species are not expected on or near the project area, care will be exercised during project construction to properly manage the presence of a peregrine falcon should one be found in the project area during construction.

____X_R. <u>IMPACTS ON SAFETY AND SECURITY:</u> Describe the measures that would need to be taken to provide for the safe and secure operation of the project after its construction.

The existing facility is presently protected by a four to six-foot high chain link fence around the site perimeter. All proposed work will be within this protected area. The existing fencing and signage restricting access to the property will be maintained at both the north and south entrances during project construction. This fencing and signage will be maintained for expanded facility operations. Security gates are located at both the south (Franklin Avenue) and north accesses to the project site and can be closed when and as needed to restrict site access.

___X__S. <u>IMPACTS CAUSED BY CONSTRUCTION</u>: Describe the construction plan and identify impacts due to construction noise, utility disruption, debris and spoil disposal, air and water quality, safety and security, and disruptions of traffic and access to property.

Proposed construction activities beyond the existing facility footprint include site excavation and grading for the additional track into and out of the new storage barn, construction of footings and building for the new storage barn, construction of footings and above-ground structure for the new shop and parts storage addition, excavation for and placement of new connecting utilities to the storage barn and shops addition and construction of electrical power infrastructure for the expanded facility.

Proposed construction activities will result in initial increases in noise levels due to project grading and excavation activities and building construction. These noise levels are expected to be muted by the presence of existing traffic noise on Hiawatha Avenue west of the site, on I-94 at the north end of the site, Franklin Avenue on the south end of the site and Cedar avenue east of the site. The community gardens located east of the site will likely experience a minor temporary increase in noise levels during construction of the shop and parts storage addition but any increases will be muted by existing and constant traffic on Interstate I-94 immediately to the north of the gardens area.

No utility disruptions are anticipated beyond the confines of the existing site. On-site utility excavations and disruptions will be managed via the employment of advance notices for site workers, appropriate warning and directional signage and appropriate temporary barriers at excavated sites.

Proper spoil and debris disposal will be accomplished in accordance with a new site construction contingency plan. This plan will include provisions for the on-site monitoring and

inspection of all excavation activities by a person or persons with appropriate hazardous materials expertise. This contingency plan will include provisions for the identification of potential hazardous materials and/or contaminated soils uncovered [groundwater contamination not expected to be an issue as proposed excavations would not reach the existing water table] during track bed and footing excavations. The plan will further include provisions for the temporary cessation of construction for in-place testing of suspect soils and materials, the temporary on-site storage of these soils
and/or materials and their proper re-use [possibly some contaminated soils] or disposal from the site.

Dust emissions from site construction will be controlled by watering as needed to suppress dust emissions from construction equipment use. Temporary erosion control measures including temporary ponding and silt barriers will be employed to prevent runoff to established ditches or onsite storm sewer inlets.

As noted in section R, site safety and security will be maintained via the presence of on-site personnel, placement of restrictive and advisory signage at site entrances, placement of signs and barriers on the site to direct construction and site worker traffic around the construction activities and emergency notification procedures for emergencies that may occur during project construction activities. These provisions will likewise be in accordance with the site safety and health plan in place for existing site operations.

The action described above meets the criteria for a NEPA categorical exclusion (CE) in accordance

with 23 CFR Part 771.117 _____.

_____ _____

Applicant's Environmental Reviewer **Date**

_____ _____

FTA Grant Representative **Date**

Exhibit – Cedar Ave S and 180th Street West Park & Ride Lot

Date March 13, 2009

Grant Applicant: Metropolitan Council 1305
Project Name: Cedar Avenue South and 180th Street West Park and Ride lot, Site 12

INFORMATION REQUIRED FOR PROBABLE CATEGORICAL EXCLUSION (SECTION 771.117(d)(4)

_____A. DETAILED PROJECT DESCRIPTION:

Existing Condition:
Currently, the condition of the proposed park and ride lot is an open farm field and the former site of a homestead that has been vacated and removed. The site to the north is an active farm field. The site to the south and east is agricultural. The property to the west (across Cedar Avenue South) is agricultural.

Proposed Project:
The Council has identified Cedar Avenue as a means to promote the safe and efficient movement of people within the Cedar Avenue Corridor. The Dakota County Regional Railroad Authority (DCRRA) has adopted an implementation plan for the Cedar Avenue Corridor. Cedar Avenue is also identified as a transit corridor in regional plans.

Federal funds from the Urban Partnership Agreement (UPA) and state funds have been obtained to provide for development of a park and ride lot in Lakeville, Mn. The UPA is a U.S. Department of Transportation initiative to address traffic congestion. In the spring of 2008, the City of Lakeville opted into the Twin Cities Metropolitan Transit Taxing District, making the City eligible for transit facilities and services.

The Cedar Avenue South at 180th Street West site is located in the southern half of the16-mile long Cedar Avenue Corridor. The site is on the east side of Cedar Avenue South. The first phase of the project will be to improve the site as a surface lot with approximately 200 parking stalls, parking lot lighting, signage, a passenger waiting area, and on-site circulation for express bus transit service. Site plan is attached.

Bus Service:
On opening day there are planned to be 6 morning trips running between Lakeville and downtown Minneapolis, making stops at Apple Valley and Lake Street on the way. They will run at approximately 20 minute frequencies, which would be 3 peak-hour buses. Likewise in the evening there will be 6 trips that originate in downtown Minneapolis and run to 180th Street, stopping at Lake Street and Apple Valley Transit Station on the way. Again the peak hour will have 3 buses with a frequency of about 20 minutes.
This service is basically an extension of 5 of the existing trips (in each direction) on route 477 that runs between Apple Valley and Minneapolis. In addition there will be an addition of one new trip in each peak. That is, there will be one more route 477 trip in each direction than there is now between Apple Valley and Minneapolis, and there will be a total of 6 trips each way on the new portion of the route between Lakeville and Apple Valley.

_____B. <u>LOCATION (INCLUDING ADDRESS):</u> Attach a site map or diagram, which identifies the land uses and resources on the site and the adjacent or nearby land uses and resources. This is used to determine the probability of impact on sensitive receptors (such as schools, hospitals, residences) and on protected resources.

18040 Cedar Avenue South, Lakeville, MN 55044.
Section 15_ TWN 114_ Range 20.
Zoning Map attached
Zoning designation is consistent with the proposed usage.

_____C. <u>METROPOLITAN PLANNING AND AIR QUALITY CONFORMITY</u>: Is the proposed project "included" in the current adopted MPO plan, either explicitly or in a grouping of projects or activities? What is the conformity status of that plan? Is the proposed project, or are appropriate phases of the project included in the TIP? What is the conformity status of the TIP?

The proposed park and ride lot is located within an attainment area for ozone, particulate matter, sulfur dioxides, and lead, and is within the Twin Cities maintenance area for carbon monoxide (CO).

The Cedar Avenue South at 180th Street West project was included in the Metropolitan Council's (the regional Metropolitan Planning Organization for the seven-county Twin Cities area) 2008-2011 Transportation Improvement Program (TIP) under which the UPA projects were awarded. The Metropolitan Council projects included in the TIP are reviewed for consistency under the Metropolitan Council's Air Quality Control Plan and must conform to the air quality standards for inclusion.

Transit Projects have the effect of reducing SOV traffic and in general, as is the intent and purpose of this project, reduce congestion and emissions. .

_____D. <u>ZONING:</u> Description of zoning, if applicable, and consistency with proposed use.

Current zoning for this site is RM-1, Medium Density Residential District. The Cedar Avenue South and 180th St. W Park and Ride site is located within, but at the edge of the 2010 Metropolitan Urban Services Area. The Lakeville Comprehensive Plan indicates this location would be zoned as Medium/High Density Residential land uses in the future.

_____E. <u>TRAFFIC IMPACTS:</u> Describe potential traffic impacts; including whether the existing roadways have adequate capacity to handle increased bus and other vehicular traffic.

Information regarding existing conditions and forecast year conditions are taken from the Cedar Avenue Corridor Environmental Assessment (EA), July 2008—Review Draft. (copy forwarded to FTA)

Average daily traffic volumes for the Cedar Avenue corridor in the vicinity of the proposed park and ride lot (between County Highway 9/Dodd Road to the north and County 50 to the south) are 15,400. Currently, there are no known operating deficiencies along this segment of Cedar Avenue South in the vicinity of the proposed park and ride lot.

Traffic forecasts were completed for 2030 for as part of the Cedar Avenue Corridor EA. The 2030 analysis indicates that traffic on the segment of Cedar Avenue South between County Highway 9/Dodd Road County 50 would be 40,300 vehicles per day.

The proposed park and ride lot is located at the extreme edge of the Municipal Urban Services Area (MUSA). Beyond construction of the park and ride lot, there are no definite plans for development in this area. Given the existing development to the north, and the edge of the MUSA boundary near the proposed park and ride lot site, the City of Lakeville and Dakota County anticipate that this area will develop up to the MUSA boundary. As development in this area occurs, local parallel streets may be constructed to accommodate traffic generated by the development, and to provide more routing choices to drivers. It is possible that the local roadway system would be reconfigured in the area, as necessary to accommodate development.

The Cedar Avenue Corridor is being developed and designed to accommodate increased bus usage. Buses and individuals initially using the park and ride lot would access the site via Cedar Avenue South. When the need for a future local roadway system is eventually needed to accommodate development, the City of Lakeville and Dakota County will design the network to accommodate bus circulation within the site. The park and ride lot itself is designed so that vehicular and bus traffic will not adversely impact the overall development. Increased transit use, which is an expected as a project outcome, will reduce the amount of single occupancy vehicle (SOV) trips in the surrounding area and along Cedar Avenue South.

The buses will be going between Lakeville and downtown Minneapolis, making stops at Apple Valley and Lake Street on the way.
The portion between Lakeville and Apple Valley is new. There will be no mid-day, late evening, or weekend service initially.

Impact traffic in two ways:
First we will be adding bus trips, a total of 12 trips in each peak. 6 peak trips in the peak direction (NB AM, SB PM) in service, and 6 peak trips in the off-peak direction (SB AM, NB PM) which represent the bus deadhead to/from the Lakeville station.
Second, we will (hopefully!) reduce auto traffic. Our projection is that about 8 people per trip will ride on the Lakeville extension, and that an additional 27 people per trip will be added on the Apple Valley-Minneapolis portion with the added trip. This can be expected to remove approximately 50 vehicles in each peak from the Lakeville-Apple Valley portion of Cedar Ave., and an additional 25 vehicles (for a total of 75) from the Apple Valley northward portion.

_____F. <u>CO HOT SPOTS</u>: If there are serious traffic impacts at any affected intersection, and if the area is nonattainment for CO, demonstrate that CO hot spots will not result.

The proposed park and ride lot and associated facilities are located in a maintenance area for CO. There are no traffic impacts at key intersections. Therefore, no air quality mitigation is required.

_____G. <u>HISTORIC RESOURCES:</u> Describe any cultural, historic, or archaeological resource that is located in the immediate vicinity of the proposed project and the impact of the project on the resource.

Request was sent to SHPO on December 30, 2008, for review of the project to assure there was no negative impact on any cultural, historic or archaeological resources. SHPO approval of project work dated January 21, 2009 is attached

_____H. <u>NOISE:</u> Compare the distance between the center of the proposed project and the nearest noise receptor to the screening distance for this type of project in FTA's guidelines. If the screening distance is not achieved, attach a "General Noise Assessment" with conclusions.

Information regarding anticipated noise impacts was obtained from the noise analysis completed for the Cedar Avenue Corridor EA, July 2008, Review Draft. Based on information in the EA, the closest sensitive receptor (residential structure) is located approximately 0.75 miles north of the park and ride lot. [The closest noise receptors to the transit station are receptors R and O, shown on Figure 8C of the EA]. Noise levels for the Cedar Avenue Corridor were modeled for the year 2030 for the no build and the build alternatives. The noise analysis found that there would be no difference in noise levels under the no build and the build conditions.

Noise will be generated during construction of the park and ride lot, caused by machinery used to excavate, transport, compact dirt, and construct the lot. Construction related noise will be controlled by limiting operations to daytime hours and in accordance with local ordinances. Construction equipment will be properly muffled and be maintained to control construction noise. Construction noise will be regulated by the MPCA and standards set forth by the agency.

_____I. <u>VIBRATION:</u> If the proposed project involves new or relocated steel tracks, compare the distance between the center of the proposed project and the nearest vibration receptor to the screening distance for this type of project in FTA's guidelines. If the screening distance is not achieved, attach a "General Vibration Assessment" with conclusions.

There will be no new or relocated rail tracks.

_____J. <u>ACQUISITIONS & RELOCATIONS REQUIRED:</u> Describe land acquisitions and displacements of residences and businesses.

The land for the Cedar Avenue South and 180th Street West park and ride will be acquired and owned by the Metropolitan Council. The site is currently open field and crop land and there will be no displacement of residences or businesses. The current owner has the project site advertised for sale. The Council will follow the Uniform Relocation Assistance and Real Property Acquisition policies for the acquisition. On December 17, 2008 an appraisal was completed. Appraised value is $425,000.00.
Council is awaiting FTA concurrence on environmental information before proceeding any further.

_____K. <u>HAZARDOUS MATERIALS:</u> If real property is to be acquired, has a Phase I site assessment for contaminated soil and groundwater been performed? If a Phase II site assessment is recommended, has it been performed? What steps will be taken to ensure that the community in which the project is located is protected from contamination during construction and operation of the project? State the results of consultation with the cognizant State agency regarding the proposed remediation?

TEI performed a Phase I ESA of both the Devney Parcel and the Miller Parcel, in general conformance with the scope and limitations of ASTM Practice E 1527-05. The site occupies approximately 90 acres, with the north Devney Parcel consisting of cornfields and the Miller Parcel consisting of a small tree farm/former Miller residence and the rest of the property green space or agricultural land. This assessment revealed no indications of Recognized Environmental Conditions in connection with the site. Therefore, since no Recognized Environmental Conditions were found, no additional investigation of the Site Property is recommended.

The Phase I report is attached.

_____L. <u>COMMUNITY DISRUPTION AND ENVIRONMENTAL JUSTICE:</u> Provide a socio-economic profile of the affected community. Describe the impacts of the proposed project on the community. Identify any community resources that would be affected and the nature of the effect.

The proposed park and ride lot is located in the City of Lakeville, Minnesota, a suburb of the Minneapolis-St. Paul Metropolitan Area. Lakeville is located in Dakota County, which is part of the seven-county Metropolitan Area, which is under the planning jurisdiction of the Metropolitan Council.
This park and ride lot will provide service for Lakeville residents into the Minneapolis-St. Paul central business districts, as well as other major employers, including the University of Minnesota. The lot will also allow for reverse commuting opportunities for people coming from the Minneapolis-St. Paul central business district.

Lakeville is one of the fastest-growing communities in the seven-county Twin Cities Metropolitan Area. The current population is approximately 52,000; by 2020, the population is projected to reach over 78,400. This project will provide better transit opportunities for the entire Metropolitan region and help facilitate those people who are without reliable transportation to take advantage of housing and employment available in this rapidly growing area.
The population distribution in Lakeville consists of:

2000 Estimated Population		54,114
White Non-Hispanic	93.3%	50488
Hispanic	1.9%	1028
Black	1.3%	703
Two or more races	1.3%	703
Other race	0.8%	433
Other Asian	0.7%	379
American Indian	0.7%	379

Data from: http://www.city-data.com/city/Lakeville-Minnesota.html.

The construction of the Cedar Avenue South and 180th Street West park and ride will not result in the displacement of residences or businesses.

_____M. <u>USE OF PUBLIC PARKLAND AND RECREATION AREAS:</u> Indicate parks and recreational areas on the site map. If the activities and purposes of these resources will be affected by the proposed project, state how.

The proposed park and ride lot will not affect the development or use of any public parkland or recreation areas, therefore, no Section 4(f) properties will be adversely affected by the proposed project.

_____N. <u>IMPACTS ON WETLANDS:</u> Show potential wetlands on the site map. Describe the project's impact on on-site and adjacent wetlands.

As shown on the fish and wildlife map included, there are no wetlands in the vicinity of the proposed project; therefore, construction of the park and ride will not result in wetland impacts.

_____O. <u>FLOODPLAIN IMPACTS:</u> Is the proposed project located within the 100-year floodplain? If so, address possible flooding of the proposed project site and flooding induced by proposed project due to its taking of floodplain capacity.

The proposed park and ride lot is not located in a delineated 100-year flood plain.

_____P. <u>IMPACTS ON WATER QUALITY, NAVIGABLE WATERWAYS, & COASTAL ZONES:</u> If any of these are implicated, provide detailed analysis.

The project will result in a net increase of 3.4 acres of impervious surface (and 2.4 acres of pervious surface)

The area in which this proposed project is located is in close proximity to stormwater management ponds that were constructed as part of recent, nearby development. The area in which this proposed project is located will likely experience additional surface water runoff impacts as this area continues to develop. As noted above in Section D, the proposed station location is located in an area the City of Lakeville has identified for future growth. Additionally, the station area is also located within the MUSA, which means that sewer services will be extended to this area in the future. These activities will impact surface water runoff.

The project's storm water management system being built for this project are designed to accommodate the entire park and ride site. There will be no extra water runoff. No contours will change and it will be the same runoff as today and we will adhere to all city requirements. Erosion and sediment control best management practices (BMPs) will be implemented during construction to ensure local water resources are protected during construction of the transit station. These BMPs will be construction and maintained in accordance with State and local standards.

The project will not affect any navigable waterways and is not located within a coastal zone.

_____Q. <u>IMPACTS ON ECOLOGICALLY-SENSITIVE AREAS AND ENDANGERED SPECIES:</u> Describe any natural areas (woodlands, prairies, wetlands, rivers, lakes, streams, designated wildlife or waterfowl refuges, and geological formations) on or near the proposed project area. If present, state the results of consultation with the state department of natural resources on the impacts to these natural areas and on threatened and endangered fauna and flora that may be affected.

Request for DNR review of the project for negative impact on significant natural resources and rare species was sent on December 30, 2008. DNR concurrence letter was received February 5,2009 and is attached.

_____R. <u>IMPACTS ON SAFETY AND SECURITY:</u> Describe the measures that would need to be taken to provide for the safe and secure operation of the project after its construction.

The proposed park and ride lot will be designed to provide safe and secure use of the site through access to and from the facility, a security system and separation of pedestrian and vehicular movement. Safety and security risks associated with this type of transit operation are generally low. However, the following measures will be taken at the park and ride site:

Lighting throughout the parking lot and passenger waiting areas to improve visibility.
Prompt snow and ice removal to minimize slipping hazards for vehicles and pedestrians.

_____S. IMPACTS CAUSED BY CONSTRUCTION: Describe the construction plan and identify impacts due to construction noise, utility disruption, debris and spoil disposal, air and water quality, safety and security, and disruptions of traffic and access to property.

Construction related impacts such as dust, erosion, and noise that will occur during the construction of this facility have been considered. No unique concerns have been discovered and standard noise, dust and erosion control specifications, in addition to local ordinances, will be followed. The contractor will be required to restore any ground cover that may be disturbed during construction by either seeding or sodding. No detours will be necessary during construction.

The action described above meets the criteria for a NEPA categorical exclusion (CE) in accordance

with 23 CFR Part 771.117 _____.

_____ _____

Applicant's Environmental Reviewer **Date**

_____ _____

FTA Grant Representative **Date**

Exhibit – Maplewood Mall Transit Center/Park & Ride Facility

Date _____

Grant Applicant __Metropolitan Council___1305___

INFORMATION REQUIRED FOR PROBABLE CATEGORICAL EXCLUSION (SECTION 771.117(d))

_____A. DETAILED PROJECT DESCRIPTION:

The purpose of this project is to design and construct an expansion to the Maplewood Mall Transit Center/Park-and-Ride facility in Maplewood, MN to accommodate current and future park-and-ride demand. This expansion is proposed because the existing 426-space surface lot is often full and transit customer parking overflows into the adjacent shopping center property. The expansion would provide a multi-level parking structure on property currently owned by Metro Transit/Metropolitan Council. After the expansion, the Maplewood Mall Transit Center will have up to 1000 total spaces, including the structure and some of the existing surface lot spaces; an increase of 544 parking stalls on the site.
The new facility will include three levels, two of which are above-grade. As part of the design, existing facilities will be evaluated to determine what improvements or additional facilities are required, e.g. additional bike racks, transit information, or sidewalks.
Please find the enclosed Figure 1 - Aerial Site Map which shows the existing site and footprint of the proposed parking structure expansion.

_____B. LOCATION (INCLUDING ADDRESS): Attach a site map or diagram, which identifies the land uses and resources on the site and the adjacent or nearby land uses and resources. This is used to determine the probability of impact on sensitive receptors (such as schools, hospitals, residences) and on protected resources.

The proposed Maplewood Mall Transit Center/Park and Ride expansion is located at 1793 Beam Avenue East, Maplewood, MN 55109. The majority of land use in the area is considered mixed-use consisting of retail and other commercial uses. The adjacent land use types are shown on the attached Figure 2 – Land Use Map.

_____C. METROPOLITAN PLANNING AND AIR QUALITY CONFORMITY: Is the proposed project "included" in the current adopted MPO plan, either explicitly or in a grouping of projects or activities? What is the conformity status of that plan? Is the proposed project, or are appropriate phases of the project included in the TIP? What is the conformity status of the TIP?

This project is consistent with the Metropolitan Council 2010-2013 Transportation Improvement Plan, Transportation Policy Plan and the Transportation Air Quality Plan (TAQCP), which is a supplement to the TPP. The MPO Twin Cities area is a CO Maintenance area and transit projects are exempt from regional analysis. The 2010-2013 Transportation Improvement

Program conforms to the relevant sections of the Federal Conformity Rule and to the applicable sections of Minnesota State Implementation Plan for air quality.

_____D. <u>ZONING:</u> Description of zoning, if applicable, and consistency with proposed use.

The existing project site and adjacent area for the proposed park and ride expansion is identified as Division 10 – BC Business Commercial District. "Parking lot as a principal use" is listed as a permitted use listed under this zoning designation. Thus, this designation is compatible with the proposed facility expansion.

_____E. <u>TRAFFIC IMPACTS:</u> Describe potential traffic impacts; including whether the existing roadways have adequate capacity to handle increased bus and other vehicular traffic.

A traffic study was completed for consideration of additional traffic in the project area as a result of the park and ride expansion and future traffic. The traffic study is included with this submittal as an attachment. The key findings of the study are as follows:

- The study intersections will operate acceptably at Level of Service D or better (with each movement operating individually at Level of Service E or better) during the weekday a.m. and p.m. peak hours in the existing, 2015 No-Build, and 2015 Build scenarios.
- The study intersections will operate acceptably at Level of Service D or better (with each movement operating individually at Level of Service E or better) during the weekday a.m. and p.m. peak hours in the 2030 No-Build and 2030 Build scenarios except the Southlawn Drive/West Maplewood Mall Drive. This intersection is forecast to operate at LOS F during the p.m. peak hour in both the 2030 No-Build and Build scenarios. The intersection will operate acceptably at Level of Service C if a traffic signal is installed to control the intersection.
- It is recommended the City of Maplewood monitor the Southlawn Drive/West Maplewood Mall Drive intersection. To protect land for a traffic signal, which may be eventually needed at the intersection, it is recommended sufficient right-of-way be dedicated on the Park and Ride site to allow for placement of a traffic signal pole. This amount of right-of way is typically a right triangle at the corner of the intersection with the triangle legs parallel to the road being five to ten feet long.

_____F. <u>CO HOT SPOTS</u>: If there are serious traffic impacts at any affected intersection, and if the area is nonattainment for CO, demonstrate that CO hot spots will not result.

The project area (Ramsey County, MN) is not classified as nonattainment for CO, but is considered a maintenance area. According to CFR 93.126, the proposed project does not impact regional emissions and does not require local carbon monoxide impact analysis. This project is considered exempt from regional analysis in the 2010-2013 TIP.

In addition, the proposed project is not located near any of the three Minnesota Pollution Control Agency metro area CO monitoring locations or the top seven intersections in the area. As the proposed facility expansion does not involve or affect any of these locations, a CO hot spot analysis is not required.

_____**G.** **HISTORIC RESOURCES:** **Describe any cultural, historic, or archaeological resource that is located in the immediate vicinity of the proposed project and the impact of the project on the resource. (**SEE SHPO PROCESS)

In a letter dated February 4, 2010 (attached), the State Historic Preservation Office has concurred that "no historic properties listed on or eligible for the National Register of Historic Places will be affected by the proposed project."

_____**H.** **NOISE:** **Compare the distance between the center of the proposed project and the nearest noise receptor to the screening distance for this type of project in FTA's guidelines. If the screening distance is not achieved, attach a "General Noise Assessment" with conclusions.**

Screening distance is achieved (greater than 125 feet) between the parking structure and the nearest noise receptor. The FTA screening distance guidelines account for the same amount of vehicles as this project will create space for, which provides further assurance that this project fits with the guidelines for noise screening.

A General Noise Assessment is not required as the noise screening distance is achieved and exceeded.

_____**I.** **VIBRATION:** **If the proposed project involves new or relocated steel tracks, compare the distance between the center of the proposed project and the nearest vibration receptor to the screening distance for this type of project in FTA's guidelines. If the screening distance is not achieved, attach a "General Vibration Assessment" with conclusions.**

This project is considered a "bus project" and the project boundary/property line is 100 feet or greater from any vibration receptor (100 feet is the screening distance as noted in FTA guidance).

A General Vibration Assessment is not required.

_____**J.** **ACQUISITIONS & RELOCATIONS REQUIRED:** **Describe land acquisitions and displacements of residences and businesses.**

The site for the proposed park and ride expansion is currently used and operated as a transit park and ride. This site is owned by the Metropolitan Council/Metro Transit. The proposed expansion is only vertical (with a parking structure), so there is no land acquisition or displacements necessary.

During construction of the parking structure, existing transit park and ride users will have access to parking adjacent to the existing park and ride site, provided as a lease to Metro Transit by the Maplewood Mall.

_____**K.** **HAZARDOUS MATERIALS:** **If real property is to be acquired, has a Phase I site assessment for contaminated soil and groundwater been performed?**

If a Phase II site assessment is recommended, has it been performed? What steps will be taken to ensure that the community in which the project is located is protected from contamination during construction and operation of the project? State the results of consultation with the cognizant State agency regarding the proposed remediation?

No real property will be acquired for this expansion project. The construction and operation of the parking structure will entirely be accomplished within existing site limits.

Aerial photographs from 1971 show that the Maplewood Mall area was used as farmland or was otherwise undeveloped at that time. The project site was first developed as part of the Maplewood Mall complex in 1973 (Mall opened in 1974), containing no buildings. From 1980 to December 2002, the park and ride site was used for operating a 6-screen movie theater. Theater operations ceased in December of 2002 and the Met Council acquired the property. The theater building was demolished in 2003. No other structures have been present on the property. No operations have occurred on the site that would create a particular concern for potential contamination (e.g. no railroad operation or use requiring an underground storage tank).

As part of the design of the proposed park and ride expansion, a geotechnical investigation has been performed to determine soil type and aid in designing proper building foundations. While this report does not specifically seek out potential contamination, the geotechnical firm is required to notify Metro Transit of any signs of potential contamination such as odor or discoloration. No suspect contaminated material was encountered while investigating the nine soil borings of depth 50 feet or greater.

A search of the Minnesota Pollution Control Agency's inventory of contaminated properties dating back to 1980 did not list the project as under investigation, potentially contaminated, or previously cleaned up. There are no active or closed Recognized Environmental Conditions (REC) for this project site contained in the database.

_____L. <u>COMMUNITY DISRUPTION AND ENVIRONMENTAL JUSTICE:</u> Provide a socio-economic profile of the affected community. Describe the impacts of the proposed project on the community. Identify any community resources that would be affected and the nature of the effect.

The city of Maplewood is located in the northeast part of the seven county Twin Cities metropolitan area. As of the census in 2000, there were 34,947 people, 13,758 households, and 9,191 families residing in the city. The population density was 2,017.5 people per square mile (779.0/km2). There were 14,004 housing units at an average density of 808.5/sq mi (312.2/km2). The racial makeup of the city was 88.69% White, 3.54% African American, 0.55% American Indian, 4.54% Asian, 0.07% Pacific Islander, 0.73% from other races, and 1.88% from two or more races. Hispanic or Latino of any race was 2.23% of the population.

The median household income was $51,596, the per capita income was $24,387, and the median family income was $63,049. As of the census in 2000, 4.83% of persons in the city of Maplewood had incomes below the poverty level. Out of 9,225 families, 3.04% had incomes below the poverty level.

The proposed project will benefit the community by providing additional park and ride capacity, consistent with regional and City plans. The need to provide transit service to established areas

has been planned for in the Transportation Policy Plan and will not remove resources from projects or negatively impact any projects in areas with larger minorities or low-income populations. The proposed project will not have adverse human health or environmental effects to any minority of low-income populations.

_____M. <u>USE OF PUBLIC PARKLAND AND RECREATION AREAS:</u> Indicate parks and recreational areas on the site map. If the activities and purposes of these resources will be affected by the proposed project, state how.

The project will not affect any Public Parkland or Recreation areas. Refer to Figure 2 – Land Use Map for the location of the nearest park area.

_____N. <u>IMPACTS ON WETLANDS:</u> Show potential wetlands on the site map. Describe the project's impact on on-site and adjacent wetlands.

This project does not impact any wetland area. The proposed expansion maintains the same amount of impervious space as exists currently. There are no wetlands on the project site or adjacent to the site. Please see Figure 3 – Wetland Map attached. Note: Figure 3 suggests that there is a wetland just to the west of the proposed parking structure, however the data used in this map was collected in 1988. Land cover maps for the area indicate that by 1991, the "wetland" area was considered "bare soil and fallow" and by 2002 was a fully developed urban area.

_____O. <u>FLOODPLAIN IMPACTS:</u> Is the proposed project located within the 100-year floodplain? If so, address possible flooding of the proposed project site and flooding induced by proposed project due to its taking of floodplain capacity.

The project area is not within the 100-year floodplain. The area is classified as FEMA Flood Zone X (outside of the 1-percent annual change floodplain). Please refer to Figure 4 – Floodplain Map.

_____P. <u>IMPACTS ON WATER QUALITY, NAVIGABLE WATERWAYS, & COASTAL ZONES:</u> If any of these are implicated, provide detailed analysis.

The project does not involve the physical or hydrologic alteration, dredging, filling, stream diversion, outfall structure, diking, and impoundment of any surface waters such as a lake, pond, wetland, stream or drainage ditch. The entire project falls within the Ramsey Washington Metro Watershed District (RWMWD). The RWMWD has a watershed management plan with rules and regulations governing water resources. RWMWD rules and policies (specifically: Rule C – stormwater management and Rule F - erosion and sediment control) will be followed when designing water resource features that are associated with the site improvements.

_____Q. <u>IMPACTS ON ECOLOGICALLY-SENSITIVE AREAS AND ENDANGERED SPECIES:</u> Describe any natural areas (woodlands, prairies, wetlands, rivers, lakes, streams, designated wildlife or waterfowl refuges, and geological formations) on or near the proposed project area. If present, state the results of consultation with the state department of natural resources on the impacts to these natural areas and on threatened and endangered fauna and flora that may be affected. (COMPLETE DNR FORM)

The Minnesota Department of Natural Resources (DNR) has been contacted and they have determined that the project will have no affect on sensitive areas or endangered species. Please see the attached DNR letter dated January 29, 2010.

_____R. <u>IMPACTS ON SAFETY AND SECURITY:</u> Describe the measures that would need to be taken to provide for the safe and secure operation of the project after its construction.

The following measures will be implemented to secure the facility:

• Installing adequate lighting
• Placing closed-circuit cameras in selected areas – viewing capabilities will be shared with Maplewood Mall security
• Installation of fire protection systems
• Periodic monitoring by Transit Police forces

_____S. <u>IMPACTS CAUSED BY CONSTRUCTION</u>: Describe the construction plan and identify impacts due to construction noise, utility disruption, debris and spoil disposal, air and water quality, safety and security, and disruptions of traffic and access to property.

Erosion and sedimentation on all exposed soils within the project will be minimized by using the appropriate Best Management Practices (BMPs) during construction. BMPs greatly reduce construction-related sedimentation and help to control erosion and runoff. Ditches, dikes, silt fences, sediment basins, and temporary seeding will be used as temporary erosion control measures during construction grading. In accordance with state and federal regulations, detailed drainage plans and erosion control plans for the project will be submitted as part of the application for a National Pollutant Discharge Elimination System (NPDES) permit, to be obtained from the MPCA prior to construction.

The proposed project would not generate any excessive odors during construction. Noise and dust normal to construction would occur as a result of this project. Construction noise would be in accordance with City ordinances. Construction equipment would be fitted with mufflers that would be maintained throughout the construction process. Dust generated during construction would be minimized through standard dust control measures such as watering. After construction is complete, dust levels are anticipated to be minimal because all soil surfaces would be in permanent cover (i.e. pavement or grassed areas).

The action described above meets the criteria for a NEPA categorical exclusion (CE) in accordance

with 23 CFR Part 771.117 _____.

_____ _____

Applicant's Environmental Reviewer **Date**

FTA Grant Representative	**Date**

Public Participation Exhibits

Exhibit - Central Corridor

5.0 Central Corridor LRT Project

In June 2006, the Council approved light-rail transit as the Locally Preferred Alternative (LPA) for improved transit in the Central Corridor along University and Washington Avenues between downtown Minneapolis and downtown St. Paul. In December 2006, the Federal Transit Administration (FTA) granted its approval for the Council to enter preliminary engineering.

In January 2007, the Council approved the Communications and Public Involvement Plan for the project that was developed in consultation with partnering agencies. The objectives of this plan are to:

- Build broad public awareness of and support for the project as an essential means to improve our transportation system and maintain regional competitiveness.
- Identify key community, business, racial and ethnic groups within the corridor and maximize opportunities for public involvement and communication during the design and construction process to promote public ownership of the project.
- Prepare project-area residents, businesses, and commuters for what to expect during construction, listen to their concerns, and develop plans to minimize harmful or disruptive effects.
- Reduce the danger of costly project delays that may jeopardize the construction of the project or certain components.

In developing this plan, the Council and its project partners recognized the need to consider the needs of a diverse population, including those with disabilities, cultural differences, language barriers, and mobility and age related constraints. Based on geographic analysis, staff concluded that:

- Minorities comprise of 44% of the people living within a half-mile of the proposed Central Corridor stations, compared with 18% for the region as a whole.

- Nearly 25% of all households within a half-mile of the proposed stations have incomes below the poverty level, compared with 6.4% of households for the entire region.

- Disproportionately high numbers of corridor residents are transit dependent.

- Some neighborhoods along the corridor have high percentages of homes where a language other than English is spoken; languages include Amharic, Hmong, Khmer, Korean, Oromo, Russian, Spanish, Somali, and Vietnamese.

The plan recognizes the need to use multiple tools to communicate with multiple audiences and engage them in the development of the plan. Rapidly implementing this plan, the Council and project partners:

- Formed a 43-member Community Advisory Committee (CAC) that includes representatives from key neighborhood, racial and ethnic groups. The CAC was retired in 2010 based on community feedback to create neighborhood level advisory committees focused on construction.,

- Formed a Business Advisory Committee (BAC) with representatives from businesses within the corridor. The BAC was retired in 2010 based on community feedback to create neighborhood level advisory committees focused on construction.,

- In 2009 created Station Art Committees that represented the diverse community to work with the artist to develop station art that reflects the community. In 2011, Station Art Committees were formed for Hamline, Victoria and Western Stations that were added to project scope in early 2010,

- Hired an eight-member outreach staff, whose members speak languages including Hmong, Somali, Swahili, Spanish, French, Bantu, and American Sign Language.

- Created neighborhood level Construction Communication Committees that include at least 2 residents, 2 businesses, a transit user and a representative of the ADA community. Ethnic business organizations and community groups were invited to submit nominations to the committee. Purpose of these committees is to meet regularly with the contractor to provide feedback and develop solutions to construction related issues.

- Created a Contractor Incentive Program that awards the contractor with incentives for working with the community and minimizing impacts; the members of the CCC's convene quarterly to evaluate the contractor and determine how much of the available award they should receive. Community working group was formed to develop the contractor incentive evaluation form. The working group represented the diverse community including ethnic businesses, ADA community, minority residents and small businesses.

- Established a website that includes project fact sheets, maps, frequently asked questions (FAQs), timelines, and committee agendas, minutes, and presentations. The website includes information about the DBE program and highlights community activities.

- Established a 24-hour construction hotline for people to call with questions and concerns. The hotline is available in other languages including Somali, Hmong, Vietnamese and Spanish.

- Worked with the Business Resources Collaborative to develop a business resources packet. Packets were translated in Somali, Vietnamese, Hmong and Spanish.

- Prepared informational brochures, fact sheets, and PowerPoint presentations.

Exhibit - I-35W & 46th St Restructuring Plan

I-35W and 46th Street Restructuring Plan

Public Input Process

Background

The proposed I-35W and 46th Street Service Restructuring Plan incorporates the new online transit station now being constructed by Metro Transit in partnership with MNDOT at I-35W and 46th Street in south Minneapolis. This station is one of the first elements of the planned I-35W Bus Rapid Transit (BRT) corridor starting in 2012. Ultimately, eight stations are planned along I-35W.

On April 28, 2010, the Council approved the service restructuring plan for public review. This was a major service change proposal, affecting more than 25% of some routes, so a formal public input process was followed, per Metropolitan Council policy. Two public informational meetings and a public hearing were held to take public comments on the plan. The official public comment period began on April 28, 2010 and closed at 5:00 pm on July 9, 2010. Staff reviewed these comments and revised the plan to address many of the issues raised. The final version of the plan is now complete and ready for approval and implementation on December 4, 2010.

The proposed Service Restructuring Plan modifies existing bus routes to better serve the new station. The plan features all-day service on the freeway in both directions linking city and suburban neighborhoods with downtown Minneapolis and connections to the University of Minnesota and south suburban reverse-commute destinations such as the Best Buy headquarters, the Golden Triangle, and Normandale College.

The plan changes bus service for customers riding in Edina, Richfield, and Minneapolis. The biggest impacts will be felt by customers now using routes 146, 152, 535 and 576 as these routes are combined and connecting service is arranged at the new station.

Information Distribution

Website / e-mail:
Information about the *I-35W & 46th Street Restructuring Plan* was available at metrotransit.org, and comments could be faxed to the Metropolitan Council Data Center at 651-602-146 beginning early in May 2010. In addition, a special e-mail box was set up to receive public comments and questions via e-mail. Several neighborhood groups were sent emails alerting residents of the proposal, how to learn about it and comment.

Rider Alerts:
Flyers that described the restructuring plan, announced the two public informational meetings and served as a public hearing notice were posted at most bus stops along the routes most significantly affected by the plan, (routes 146, 152, 535, and 576). Rider Alerts were also distributed on Route 152 – U of M buses because of the short time available for students to learn about the proposed replacement of the route before the Spring Semester ended in mid-

May. Bus operators were asked to announce that they had brochures available just before the public informational meetings and the public hearing.

Brochures:
15,0000 brochures were distributed on buses and local outlets that listed the route by route changes proposed, explained the public comment process, and offered a postage–paid comment form for our stakeholders to give their opinion of the proposed changes. The brochure listed the times and locations for the two public informational meetings and the formal public hearing.

Connect newsletter:
Connect is available on all buses and trains system-wide. The May and June issues discussed the new station, its service (local and express routes) and opening date information. Articles also listed the times and locations for the two public informational meetings and the formal public hearing.

Public Meetings

Neighborhood Meetings
The I-35W & 46th Street Station project and restructuring plan has been influenced by the contributions of many stakeholders. The station is located where four Minneapolis neighborhoods meet (Kingfield, Tangletown, Field and Regina). They are represented by three different neighborhood associations, so there was much opportunity to engage community members through formal and informal public participation process. Metro Transit staff presented the concept restructuring plan to Minneapolis city council members Hodges, Quincy and Glidden, and at four neighborhood association meetings: Kingfield, Lynnhurst, Field Regina Northrup, and Tangletown. Transit staff met with city staff of Bloomington, Edina, Minneapolis, and Richfield. Metro Transit staff has partnered with MnDOT in outreach efforts with the I-35W Solutions Alliance. For example, Metro Transit has been a partner, exhibitor and presenter at several of the Crosstown Commons construction open houses. Likewise, the same synergy was applied and MnDOT co-presented with Metro Transit at some of the stakeholder meetings for final station design and construction. All along, at numerous meetings staff solicited opinion and heard comments regarding station design, amenities, access and future transit service in the area.

Public Informational Meetings
Wednesday, June 2nd, 5:00 – 7:00 p.m.
Woodlake Nature Center, Richfield – 18 attendees

Tuesday, June 15th, 5:00 – 7:00 p.m.
Fuller Park - 4800 Grand Ave. S, Minneapolis – 13 attendees

Public Hearing
Tuesday, June 29th, 11:30 a.m. – 1:00 p.m.
Minneapolis Central Library, Doty Board Room
300 Nicollet Mall, Minneapolis – 12 attendees

Public Input Process Results

Metro Transit received 131 comments about the restructuring plan, including two comments received during the week after the end of the comment period. The proposed replacement of routes 146 and 152 generated the most comments. Together these two routes generated 58 comments, or 44% of the total received.

- Route 146 had 40 comments. Of these, 28 or 70% opposed the change.
- Route 152 had 18 comments. Of these, 15 or 83% opposed the change.
- Routes 46 and 135 had the most positive comments.

Routes 535 and 576 together had the most customers with questions or seeking more information about the plan. There was an opportunity to e-mail responses to most of these, and with the clarifications, most of these comments became favorable to the plan.

Exhibit - Route 255 Elimination

Metropolitan Council public hearing to consider elimination of regional transit route 255

The Metropolitan Council will conduct a public hearing to receive public comment on the proposed elimination of regional transit route 255, effective May 30, 2009.

Route 255 provides reverse commute service from downtown St. Paul to the Wells Fargo operations center in Shoreview. Commuter services staff will also be present at the hearing to discuss alternative commuting options.
Specific information will be posted at www.metrocouncil.org and available at the Metropolitan Council Regional Data Center in mid-March.

All interested persons are encouraged to attend the hearing and offer comments. Those attending are strongly encouraged to register in advance by calling the Data Center at 651-602-1140.

- **The public hearing will be held:**
  12 noon, Tuesday, April 14, 2009
  Wells Fargo Operations Center
  Second Floor Lunchroom
  1801 Parkview Drive
  Shoreview, MN 55126

The Council will also receive comments on the proposed route elimination through **April 24** as follows:

- Written comments: Metropolitan Council Data Center, 390 N. Robert St., St. Paul, 55101
- Fax comments to: Data Center at 651-602-1464
- Send TTY comments to: Data Center at 651-291-0904
- Email: data.center@metc.state.mn.us
- Record comments on Council's Public Comment Line at 651-602-1500
- Comments must be received by **5 p.m., Friday, April 24**.

Exhibit - Northstar Commuter Rail Fare Proposal

Council to hold hearings on proposed fares for Northstar commuter rail

Contact: Bonnie Kollodge
651.602.1357

ST. PAUL – (Feb. 25, 2009) – The Metropolitan Council has scheduled three public hearings in April to receive public comment on proposed fares for the Northstar Line, the state's first commuter rail service set to open in late 2009. The 40-mile Northstar commuter rail line will provide service on existing track along Highways 10 and 47 from Big Lake to downtown Minneapolis.

The Council is proposing fares that are priced according to a tier system, based on the distance away from downtown Minneapolis. The proposed weekday cash fares (one way) to downtown Minneapolis from the five suburban stations anticipated to be open by late 2009 are:

- Big Lake – $8.00
- Elk River – $6.00
- Anoka – $4.00
- Coon Rapids – $4.00
- Fridley – $3.25

For customers not traveling downtown, the proposed one-way fare between stations is $3.25.

Northstar trains will offer weekday service during morning and evening rush hours, as well as regular weekend service and some special event service. Trains will travel at speeds up to 79 mph, with a direct connection to Hiawatha light rail trains in downtown Minneapolis. The trip from Big Lake to downtown Minneapolis is estimated to take about 45 minutes.

During the summer of 2008, a joint committee with representatives from Anoka, Hennepin and Sherburne counties, the Northstar Community Development Authority (NCDA) and Metro Transit reviewed and analyzed fare options for the Northstar commuter rail line and developed a recommendation.

In September 2008, as gasoline prices were peaking, the Council directed Metro Transit to reevaluate the proposed fares, expressing concern that estimated revenues from the recommended fares were too low. Metro Transit and Northstar Project staff reexamined other fare-pricing scenarios and assessed their impact on ridership and revenue, including a fare of up to $10 for each one-way trip between Big Lake and Minneapolis.

The fares being proposed at this time reflect the reevaluation and the relative stabilization of gas prices. The new fare recommendation will be considered at public hearings in April. At the conclusion of the public comment period, a recommendation on the proposed fares will be presented to the NCDA and the Metropolitan Council will make a final decision on the fares in May.

Public hearing schedule:

- **Wednesday, April 8, noon – 1 p.m.**
  Minneapolis Central Library Doty Room
  300 Nicollet Mall, Minneapolis
  Served by Routes 3, 4, 6, 10, 11, 16, 17, 18, 25, 675, 852

- **Wednesday, April 8, 7 – 8 p.m.**
  Sherburne County Government Center Board Room
  13880 Highway 10 (13880 Business Center Drive), Elk River

- **Tuesday, April 14, 6:30 – 7:30 p.m.**
  Anoka County Government Center Board Room (7th floor)
  2100 3rd Avenue, Anoka
  Served by Routes 766, 805, 850, 851, 852

Trip planning services are available at www.metrotransit.org or by calling a transit information representative at 612-373-3333.

The public is invited to register in advance to speak at a public hearing by calling the Regional Data Center at 651-602-1140. Members of the public also can comment by e-mailing data.center@metc.state.mn.us.

Comments can be mailed to the Data Center at 390 Robert Street N., St. Paul 55101, or faxed to 651-602-1464. Recorded phone messages can be directed to 651-602-1500 (TTY 651-291-0904). The public comment period closes at 5 p.m. on Friday, April 24.

The Metropolitan Council is the regional planning organization for the seven-county Twin Cities area. It runs the regional bus and light rail system, collects and treats wastewater, manages regional water resources, plans regional parks and administers funds that provide housing opportunities for low- and moderate-income individuals and families. The Council is appointed by and serves at the pleasure of the governor.

- **METROPOLITAN COUNCIL**
- **NOTICE OF PUBLIC HEARINGS ON PROPOSED**
- **TRANSIT FARES FOR NORTHSTAR COMMUTER RAIL SERVICE**

- The Metropolitan Council will hold a series of public hearings to receive comments on new recommended fare prices for Northstar Commuter Rail service to begin in late 2009.
- The fare recommendation will be posted at www.metrotransit.org and available at Metropolitan Council Data Center beginning in mid-March.

- All interested persons are encouraged to attend the hearings and offer comments. Those attending may register in advance to speak by calling the Data Center at 651-602-1140.
- The public meetings and hearing will be held at the following times and locations:
    - **April 8: Noon – 1:00 p.m**.

      Minneapolis Central Library, Doty Room

      300 Nicollet Mall, Minneapolis

      Served by Routes 3, 4, 6, 10, 11, 16, 17, 18, 25, 675
    - **April 8: 7:00 – 8:00 p.m.**

      Sherburne County Government Center Board Room

      13880 U.S. Hwy. 10 (13880 Business Center Drive)

      Elk River, MN
    - **April 14: 6:30 – 7:30 p.m. Public Hearing**

      Anoka County Government Center

      Board Room 7th Floor

      2100 Third Ave., Anoka

      Served by Transit Routes 766, 805, 850, 852

The Council will also receive comments on the proposed fares through **April 24** as follows (comments must be received by **5 p.m**.):

- Written comments: Metropolitan Council Data Center

  390 N. Robert St., St. Paul, 55101
- Fax comments to: Data Center at 651-602-1464
- Send TTY comments to: Data Center at 651-291-0904
- Email: data.center@metc.state.mn.us
- Record comments on Council's Public Comment Line at

  651-602-1500

Attention Transit Customers

Learn about connections with Northstar trains

Metro Transit will hold three public meetings to familiarize customers with bus route adjustments to be made in conjunction with the opening of Northstar commuter rail service later this year.

Trains will provide five morning and five afternoon weekday trips serving major work start and end times in downtown Minneapolis, one weekday reverse-commute trip in each direction and three roundtrips on Saturdays and Sundays. Exact schedules and fares are still being determined.

Customers are invited to provide comments on bus route changes at these meetings:

Wednesday, Sept. 16 – 11:45 a.m. to 1:15 p.m.
Minneapolis Central Library, Doty Board Room

Wednesday, Sept. 16 – 7 to 8:30 p.m.
Coon Rapids City Hall, Council Chambers

Thursday, Sept. 17 – 6:30 to 8 p.m.
Fridley City Hall, Council Chambers

If you cannot attend a meeting, you can submit questions or comments to MetroTransitCustomerFeedback@metc.state.mn.us.us or by calling Customer Relations at 612-373-3333. Visit metrotransit.org/Northstar for details on commuter rail service.

Thank you for riding with us.

Exhibit – Transportation Policy Plan Update

2.0 Transportation Policy Plan

The Council adopted its *2030 Transportation Policy Plan* in 2004 after extensive public outreach efforts. These efforts included holding six open houses in Twin Cities area locations that were accessible by transit, as well as a formal public hearing. Four of the seven meetings were held in central city locations that were readily accessible to minority and disadvantaged populations. These events were attended by a total of 330 people.

Attendance was promoted in prominent newspaper advertisements in both the Minneapolis Star Tribune and the St. Paul Pioneer Press; news releases; stories on the Council's website; e-mails and mailings to local governments, transit advocates, disability groups, and groups representing minority, immigrant and disadvantaged populations.

News releases were sent to the metro dailies, as well as community newspapers serving inner-city, minority and suburban populations.

Summaries of the plan and comment cards were distributed at all of the meetings, and other feedback was recorded.

A copy and summary of the plan was posted on the Council's website, along with an online form to submit comments.

Presentations were made to key stakeholder groups, including the Transportation Advisory Board, the Transportation Management Organizations in the region, and the Coalition of Metro Chambers of Commerce.

A half-hour presentation on the plan by Council Chair Peter Bell was recorded on video and broadcast eight times on Metro Cable Channel 6, which serves the seven-county metro area. The dates and times of these broadcasts were publicized on the Council's website and in newspaper advertisements in the two metro dailies.

Comments on the proposed plan were received from a total of 127 people via public hearing testimony (19), the telephone comment line (3), mailed letters (44), fax (12), e-mail (30) and comment cards (19). The comments were analyzed and summarized by Council staff, and made available to the Council for its consideration. The plan was adopted December 15, 2004.

Exhibit - Guidelines for Assigning Vehicles to Scheduled Service

Guidelines for Assigning Vehicles to Scheduled Service
Revised: 3/10/2011

When service needs require adjustment of the fleet between one service garage and another, or when new vehicles are added to the fleet, pay attention to the following considerations in vehicle assignment:

1. Spare Factor is not to exceed 20%; 18% is preferred. Calculate spare factor as follows: (Bus Count – Peak Demand) / (Peak Demand).
2. Vehicle Type (40-ft or Articulated) based on Service Requirements per Service Development Department (formerly included Wheelchair Accessibility and Bike Racks before movement to 100% fleet compliance.)
3. Contract work, such as for opt-outs where specific bus numbers are part of the contracted service. This also includes short-term advertising contracts, such as for “wrap” buses.
4. Average Fleet Age. Maintain a fair and balanced fleet age throughout all garages using an acceptable fleet range and using planning knowledge of future bus procurements. This ensures knowledge of new technology will be broadly distributed to all mechanics, and helps keep both Operators and Mechanics system-wide sharing the benefits of new equipment.
5. Sub-Fleets. “Sub-Fleets” of a particular type of vehicle design or configuration should be kept together whenever possible. For example, the initial 10 low-floor buses (1998 Gilligs) have a unique configuration of engine, transmission, and other parts. Keeping them together helps Stores Department adequately stock spare parts and allows for easier identification of sub-fleet peculiarities when the same team maintains the entire sub-fleet.
6. Automatic Passenger Counters (APC’s). Movement of buses with automatic passenger counters must be coordinated with Service Development Dept.
7. Stability. Keep the same bus at the same garage its entire service life if possible. This provides for increased “ownership” and accountability to the garage. Some maintenance issues develop over a long period of time, so keeping the bus in one place ensures the maintenance team will invest in the short-term practices that lead to long-term efficiency.
8. Sequential numbers. Keep sequentially numbered groups of buses together whenever possible for general ease of internal garage identification and administrative tracking by Fleet Service.
9. Test Buses. Consider implications of bus movement on any test currently being conducted on a vehicle or its components.

Exhibit - Metro Transit Security Policy

Metro Transit Police Department maintains a Security and Emergency Preparedness Plan (SEPP) which encompasses employee and public security. This plan is required by the FTA through 49 CFR 659. The FTA delegated the management of the compliance of the SEPP to the Minnesota State Patrol through the Mn Rail Safety Oversight Program (MnRSOP). This plan is updated and reviewed on an annual basis. Metro Transit Police Department completed its 2010 revision on August 16, 2010. Metro Transit received confirmation of compliance with the 2008 MnRSOP standards on September 27, 2010 from Capt. Tim Rogotzke, MnRSOP Program Manager. The underlying premise of the SEPP is that security is everyone's job, all of the time. The SEPP is a security sensitive document and thus particulars cannot be discussed.

Metro Transit Police has policies in place to ensure that suspicious activity is observed without regard to race, color, or national origin. MTPD strategically deploys personnel and resources based on neutral criteria such as operational demands, threat and vulnerability assessments, and high crime areas. Metro Transit Police Department has several policies and procedures guiding officer conduct. Policy 018 addresses Impartial Policing. The purpose of this Policy is to reaffirm the Metropolitan Transit Police Department's commitment to impartial/unbiased policing and to reinforce procedures that serve to assure the public that we are providing service and enforcing laws in a fair and equitable manner to all.
Expected officer conduct is further outlined in Policy 100, Rules of Conduct. Section 2.01, In the performance of their duties, employees shall not use coarse, violent, profane or insolent language or gestures, and shall not express any prejudice concerning race, religion, politics, national origin, lifestyle or similar personal characteristics.

Service and Fare Change Exhibits

Exhibit - Northstar Commuter Rail Fare Proposal

DATE: April 8, 2009

TO: Adam Harrington; Wanda Kirkpatrick; John Levin; Edwin Petrie

FROM: Jason Podany;

SUBJECT: Title VI Review of the Northstar Commuter Rail Fare Proposal

Northstar commuter rail is a new transit service operating on dedicated right-of-way freight rail tracks between Big Lake and downtown Minneapolis. Limited stops will be made along the 40-mile stretch in Elk River, Anoka, Coon Rapids and Fridley. The project is distinct in that it is the first commuter rail service in the Twin Cities Metropolitan Area. The new fare set will better reflect the customer value of longer distance and higher quality service than express bus, while balancing ridership impacts and fare revenue generation.
This memo presents Title VI analysis and documentation of the Northstar Commuter Rail proposed fare structure impacts on low-income and minority populations in accordance with Federal Transit Administration (FTA) Title VI Guidelines.

TITLE VI AND ENVIRONMENTAL JUSTICE BACKGROUND

Title VI of the Civil Rights Act of 1964 provides that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial assistance." The FTA issued guidelines on May 14, 2007, FTA Circular 4702.1A, describing the contents of the Title VI compliance to be adopted by recipients of the FTA administered funds for transit programs. The guidelines require transit providers to prevent disparate impact and treatment on minority population when proposing significant fare changes like those planned for the Northstar commuter rail implementation. Specifically, the Circular requires that recipients of federal funding "evaluate significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact."

On February 11, 1994, President Clinton issued Executive Order 12898 which states "Each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States." Transit equity concerns arise when wealthier and more educated segments of society receive greater transportation benefits while communities of color or low-income receive or experience higher negative transportation impacts.

Minority Population

The FTA defines minority persons as people who consider themselves to be American Indian, Alaska Native, Asian, Black or African American, Hispanic or Latino, Native Hawaiian and other Pacific Islander. This definition was used to identify appropriate statistics to use from the 2000 US Census. Based on the 2000 Census the average minority population for the seven-county metro area communities is 16.97%. Census units with minority population greater than 16.97% are defined as predominantly minority areas. Figure 1 shows predominantly minority areas in the Northstar project area.

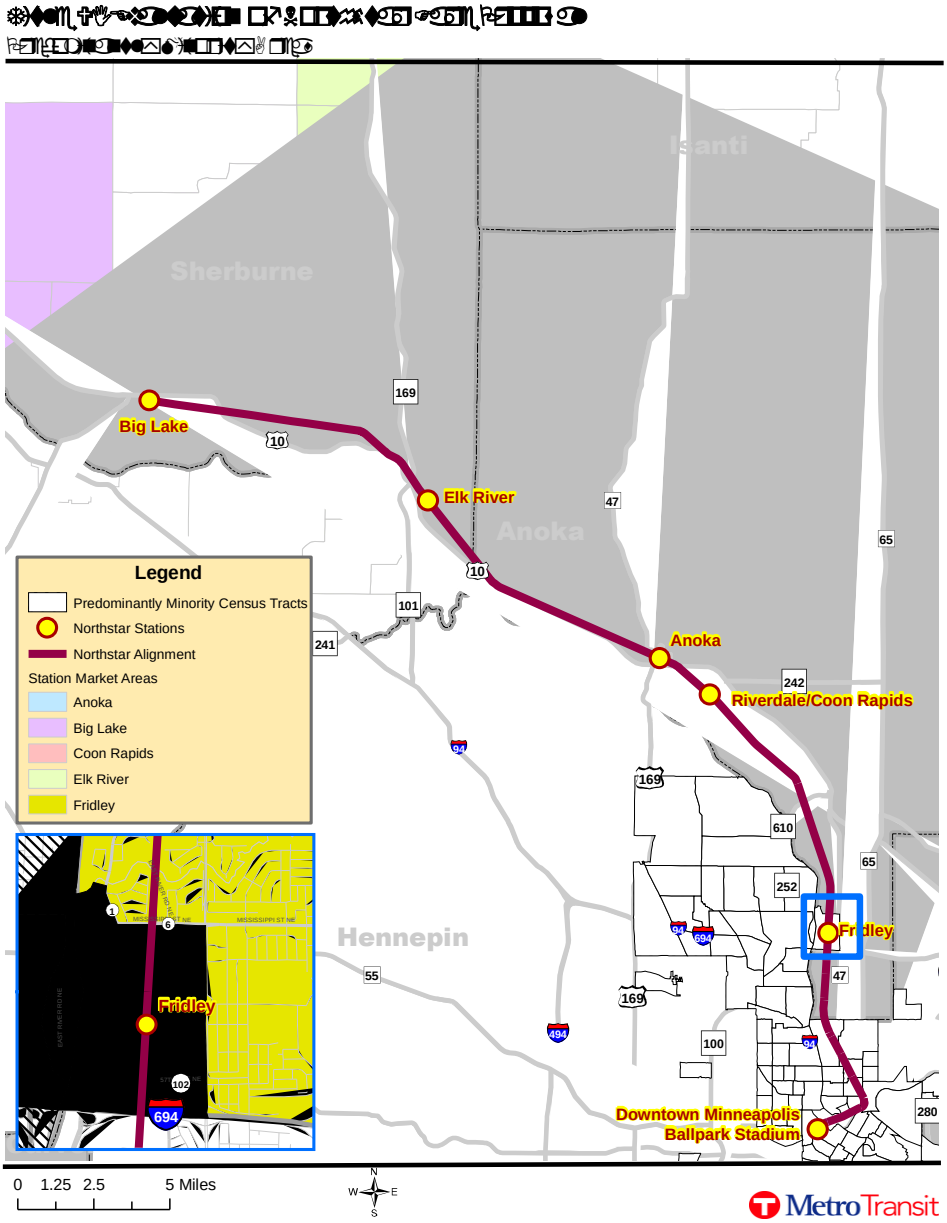


Figure 1. Year 2000 Predominantly Minority Census Divisions.

Low Income Population

Low income means a person whose median household income is at or below the Department of Health and Human Services (DHHS) poverty guidelines. The DHHS poverty guideline thresholds are based on household sizes and incomes. The 2000 US Census used nearly identical thresholds to define poverty. Using 2000 Census data the percentage of poverty individuals in the seven-county metropolitan area is 6.79%. Census units with population greater than 6.79% are defined as predominantly low-income areas. A map of predominantly low-income Census tracts in the Northstar project area is shown below in Figure 2.

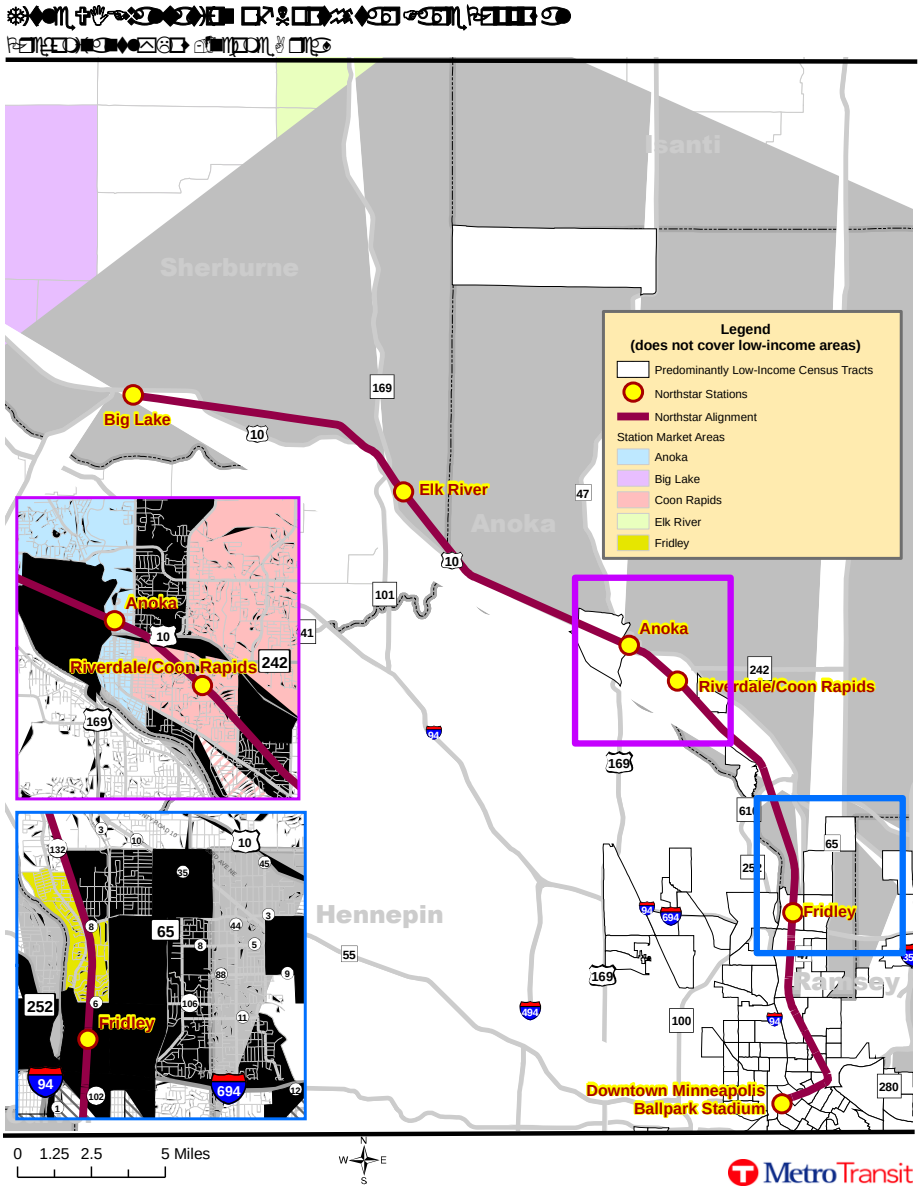


Figure 2. Predominantly Low-Income Areas.

Northstar Station Low-Income and Minority Population Markets

Market area definitions used to estimate park and ride demand were also used to estimate the low-income and minority populations for each Northstar station. The park and ride demand was estimated referencing Traffic Analysis Zones (TAZ). In some cases the TAZ boundaries were assigned percentages if planning staff believed that individuals from the same TAZ boundaries will use different Northstar stations.

Census information is used to estimate minority and low-income population however Census division boundaries do not match the TAZ boundaries. To estimate minority and low-income population a geographic information system (GIS) is used. Census block group demographic information is used because the areas are smaller than Census tracts and include both low-income and minority information. Using GIS TAZ boundaries were overlaid onto Census block group boundaries. The percentage coverage of each block group in a TAZ area is calculated. The percentages are used to tabulate minority and low-income population by TAZ. The park and ride demand percentages were then used to tabulate the low-income and minority populations for each station. Figures 1-4 include the estimated

Station Market Area	2000 Population	2000 Minority Population	Minority Percentage
Big Lake	24,326	349	1.4%
Elk River	50,048	826	1.7%
Anoka	44,172	2,239	5.1%
Coon Rapids	46,252	2,805	6.1%
Fridley	20,945	2,489	11.9%
Total	**185,743**	**8,708**	**4.7%**

Figure 3. Year 2000 Estimated Minority Population by Northstar Station Market

Station Market Area	2000 Population used for Estimating Poverty Percentage	2000 Low-Income Population	Low-Income Percentage
Big Lake	24,092	836	3.5%
Elk River	49,495	349	0.7%
Anoka	43,301	1,798	4.2%
Coon Rapids	46,052	1,487	3.2%
Fridley	20,809	1,440	6.9%
Total	**183,749**	**5,910**	**3.2%**

Figure 4. Year 2000 Low-Income Population by Northstar Station Market Area.

Metro Transit's 2008 Rider Survey

Part of this review applies slight modifications to the group definitions based on categorical differences in a 2008 Metro Transit rider survey. The survey asked respondents what best describes their racial or ethnic background. Respondents had six categories to choose from and include African-American/Black, American Indian, Asian, Caucasian/White, Hispanic/Latino and other. These categories are slightly different than Title VI guidelines. For the purposes of this review the African-American/Black, American Indian, Asian, and Hispanic/Latino categories from the survey are used to define minority persons.

The survey also asked respondents their pre-tax income based on intervals of $10,000 with a highest interval of greater than $100,000. The Department of Health and Human Services annually inflates their poverty thresholds. In 2008, an individual making less than $10,400 is considered to be low-income and a family of four with an income of less than $21,200 is also considered to be low-income. For the purposes of this review respondents who reported an income of less than $20,000 are considered low-income.

NORTHSTAR FARE STRUCTURE PROPOSAL BACKGROUND

The current regional fare structure for express service is $3.00 for rush-hour services and $2.25 for non-rush hour service. Bus Route 888 which operates from Elk River to downtown Minneapolis is an exception to the regional fare structure. Due to the long distance this route the fare is $4.75.

Nine fare structure scenarios were considered and evaluated. The scenarios were all designed to generally coincide with the distance the customers ride the train. Northstar is approximately 40 miles in length and most of the stations are approximately 10 miles apart. Based on the objectives discussed below Scenario D was proposed for public review. Scenario D fares to downtown Minneapolis are $8.00 from Big Lake, $6.00 from Elk River, $4.00 from Anoka, $4.00 from Coon Rapids and $3.25 from Fridley. Fares between the stations are $3.25. The objectives of the proposed fare structure are as follows:

Balance Customer Benefit with Their Tolerance to Fares

In October 2007, 1,147 interviews were conducted of individuals living throughout the Northstar corridor area. 578 or 50.4% of them are potential riders and were given the long-survey. Respondents were asked what a reasonable one-way fare to downtown Minneapolis from Coon Rapids and from Big Lake. 22% of the respondents thought a reasonable fare is 4 dollars or less and 76% of them thought 4 dollars or more was reasonable. 36% of the respondents thought a reasonable fare should be 8 dollars or less and 62% of them felt a fare of 8 dollars or more was reasonable.

Ridership Impacts

The Northstar service is intended to be more attractive than bus service thereby attracting more riders. This pattern is evident on the Hiawatha light-rail service where the market areas encompass much larger areas than standard bus service would. Northstar will operate on a dedicated right-of-way thereby improving travel time. Amenities, such as lighting and shelters, will be enhanced at passenger waiting facilities. Accessibility will improve because the service makes limited stops at stations prior to arriving in downtown Minneapolis.

Similar to Peer-Agencies

Fare recovery is defined as the amount of operating costs covered by customers paying fares. Fare recovery of ten peer-agency commuter rails were compared to the anticipated Northstar fare recovery of fare Scenario D. Ridership on each system varied from less than 1,700 daily rides to more than 300,000 daily rides. Average weekday ridership on Northstar is estimated to be 3,800 rides a day in 2010 - the first year of revenue service, and as high as 4,800 riders a day in 2011. Fare recovery for the peer-agencies ranged from 0% to 45%. Northstar fare recovery for Scenario D is expected to range from 22% to 28%. Attachment #3 is a chart of the peer-agency comparisons.

PUBLIC INPUT PROCESS

Open houses will be held on April 8th will be held from noon to 1:00 PM at the Downtown Minneapolis Public Library and from 7:00 to 8:00 PM at the Sherburne County Government Center. A public hearing is scheduled for 6:30 to 7:30 PM at the Anoka County Government Center Board Room. Comments are being accepted via US Mail, email and telephone until April 24th at 5:00 PM. The Metropolitan Council website notice is included as attachment #4. A number of advertising initiatives have been done to promote the proposed fare change and are detailed in attachment #5.

TITLE VI REVIEW

The Title VI review is subdivided into four different topics based on FTA guidelines. The guidelines are included for each topic.

Assessing the Effects on Low-Income and Minority Population

> FTA Guidelines:
>
> (1) Assess the effects of e proposed fare or service change on minority and low-income populations.
>
> (a) Fare changes. For proposed changes that would increase or decrease fares on certain transit modes or by fare payment type or payment media, the recipient should analyze any available information generated from ridership surveys indicating whether minority and low-income riders are more likely to use the mode of service, payment type, or payment media that would be subject to the fare increase.

The proposed Northstar fare structure is based on cash fare payment. A 2008 express route rider survey reveals fare payment method patterns among low-income and minority populations. All of the fare payment methods included in the survey will be accepted on Northstar. A number of fare payment options were included in the survey which will also be accepted fare payments for the Northstar service. Low-Income and Minority fare payment trends are discussed below.

Low-Income Assessments

The chart below summarizes fare payment statistics for the two income scales. A few assessments are made based on significant differences shown in the chart below. All of the fare payment methods are accepted on Northstar.

- 17% of low-income individuals pay cash-fare as compared to 4% of non-low-income individuals
- Low-income individuals are more likely to use the Super Saver 31-Day and Stored Value cards than the Go-To Stored Value and 31-Day cards.
- 3% of low-income individuals pay fare using the Metropass compared to the 51% of non-low-income individuals
- A total 33% of low-income individuals pay fares using the college or Upass versus a total of 7% of non-low-income individuals

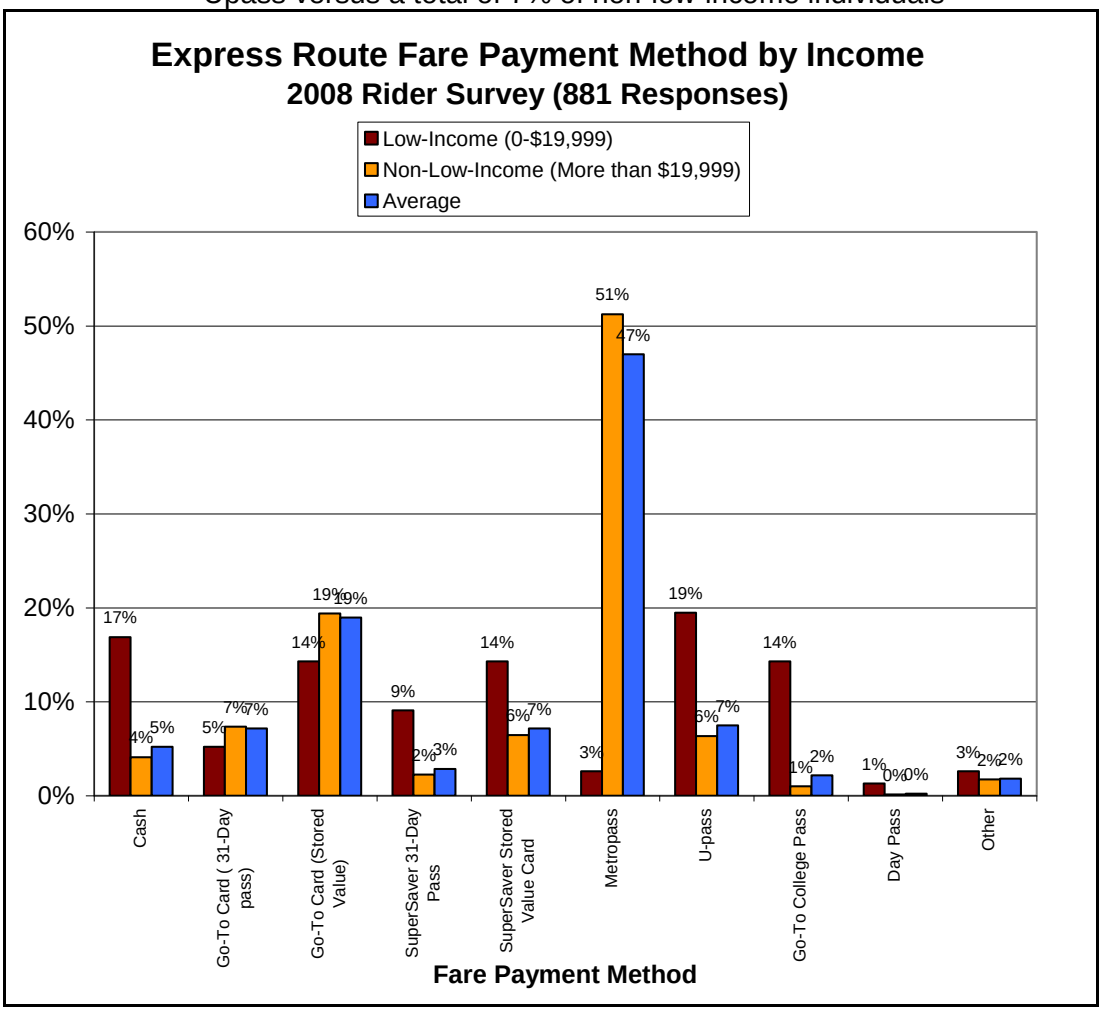


Figure 5. Express Route Fare Payment Method by Income.

Minority Fare Payment Assessment

The chart below summarizes fare payment statistics for minority and the non-minority groups. A few assessments are made based on significant differences shown in the chart below:

- 15% of minority persons pay cash-fare as compared to 3% of non-minority persons
- Minority persons are more likely to use the Super Saver Stored Value cards than the Go-To Stored Value cards.
- 22% of minority persons paid their fare using Metropass versus 52% of non-minority persons
- A total 16% of minority individuals pay fares using the college or Upass versus a total of 10% of non-low-income individuals

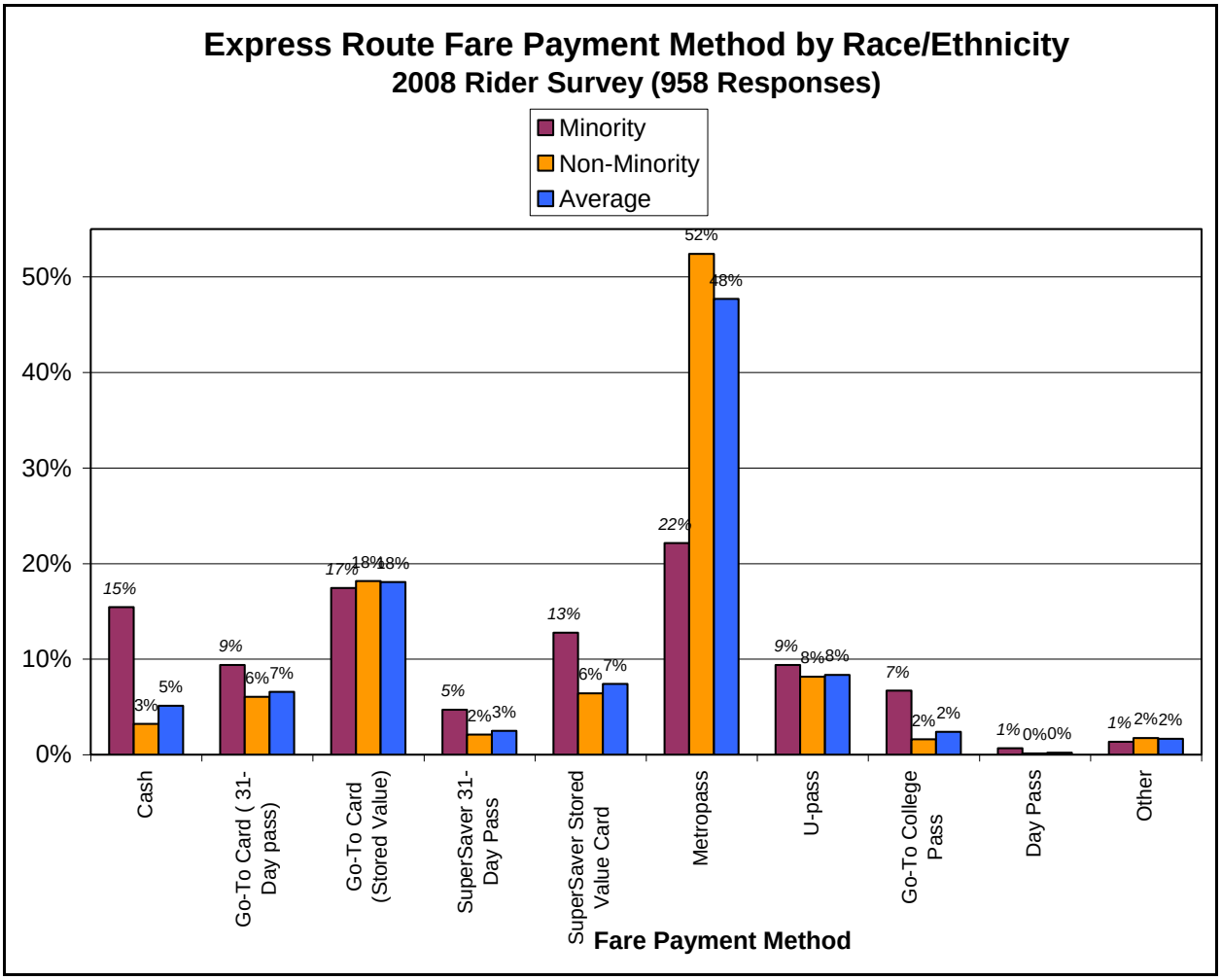


Figure 6. Express Route Fare Payment Method by Race/Ethnicity.

Assessing the Fare Alternatives

> FTA Guidelines:
>
> (2) Assess the alternatives available for people affected by the fare increase or major service change.
>
> (a) Fare changes. For proposed fare changes, the recipient should analyze what, if any, alternative transit modes, fare payment types, or fare payment media are available for people affected by the fare change. This analysis should compare the fares paid under the change with fares that would be paid through available alternatives,

Cash fare proposals to downtown Minneapolis are $8.00 from Big Lake, $6.00 from Elk River, $4.00 from Anoka, $4.00 from Coon Rapids and $3.25 from Fridley. Fares between the stations are $3.25. A number of money-saving fare passes are available to customers. The fare passes described below are among the most commonly-used and are described below. Attachment #7 describes less commonly-used money-saving fare payment options.

Super Saver/ GoTo cards
31-Day Passes and Stored Value Cards are pre-paid fares. The 31-Day Pass is good for unlimited rides for a 31-day period once activated and are priced with the assumption that they are used at least 42 times per month. Stored Value deducts the fare needed until the value is depleted. Customers using a Supersaver card or paper transfer will be given a set rate value of $1.00 applied toward the purchase of a rail ticket.

Metropass
Metropass is a discounted annual pass purchased by employers for their employees. Passes are valid for unlimited rides on buses and trains. It is a long-term contracted pass that is renewed annually. Companies must have a minimum of ten employees and/or five transit riders to enroll in Metropass. The Metropass costs 76$ a month for unlimited rides however customers will need to pay the additional express fare surcharge such as those proposed for Northstar.

Go-To College Pass
This program, for colleges and technical schools, is a semester based pass that is priced according to the school's access to transit service. The institution must offer degree programs and be accredited by a body recognized by the US Department of Education (such as the Higher Learning Commission, Accrediting Commission of Career Schools and Colleges of Technology, or Accrediting Council for Independent Colleges and Schools). Also, the institution must be licensed to operate by the State of Minnesota. Metro Transit reserves the right to determine which institutions it will partner with to offer the Go-To College Pass program during a given semester or academic year. Conditions impacting the prioritization of interested institutions may include number of schools enrolled, accessibility to Metro Transit services, effectiveness of the partnership, and number of students potentially served.

U-Pass
This program is available exclusively to active students at the Twin Cities campuses of the University of Minnesota. For $83.91 students have access to

unlimited bus and train rides for an entire semester. It is administered by the University's Parking & Transportation Services department and subsidized by student fees.

Attachment #5 is an analysis of the money-saving fare payment options for these major fare pass programs. The fare payment amounts are based on 42 weekday express route peak fare payments. By taking advantage of the fare passes customers can save a monthly average of $34.04 from Big Lake, $31.86 from Elk River, $29.67 from Anoka and Coon Rapids, and $24.36 from Fridley.

Actions taken to offset the effects

(3) Describe the actions the agency proposes to minimize, mitigate, or offset any adverse effects of proposed fare and service changes on minority and low-income populations.

Customers can save money by using Go-To cards which will be marketed extensively during Northstar implementation. Ticket Vending Machines (TVM) will be provided at every Northstar station where customers can add value to their Go-To card. Go-To cards can also be purchased online, at Metro Transit stores or by calling Metro Transit.

Determination of Disproportionate Impacts

(4) Determine which, if any of the proposals under consideration would have a disproportionately high and adverse effect on minority and low-income riders. Recipients can implement a fare increase or major service reduction that would have disproportionately high and adverse effects provided that the recipient demonstrates that the action meets a substantial need that is in the public interest and that alternatives would have more severe adverse effects than the preferred alternative.

Northstar commuter rail will be implemented in fall 2009. Year 2000 population, minority population and low-income populations are inflated based on seven-county regional growth estimates. Year 2000 seven-county population was 2,642,056 compared to the 2007 population of 2,849,003; a 1.31% growth rate per year. 2009 Northstar ridership is anticipated to be 3,800 rides per day. These statistics have been used to estimate the low-income or minority daily ridership for each station and is shown in the chart below.

Station Market Area	2009 Estimated Population	Assumed Percentage of Population using Northstar (3,800 Modeled Rides)	Estimated 2009 Station Ridership	2009 Minority Ridership	2009 Non-Minority Ridership	2009 Low-Income Ridersship	2009 Non-Low-Income Ridership
Big Lake	26,875	1.85%	497	7	490	17	480
Elk River	55,293	1.85%	1,023	17	1,006	7	1,016
Anoka	48,801	1.85%	903	46	857	37	866
Coon Rapids	51,099	1.85%	945	57	888	30	915
Fridley	23,140	1.85%	428	51	377	29	399
Total	**205,209**		**3,796**	**178**	**3,618**	**121**	**3,676**

Figure 7. Estimated 2009 Low-Income and Minority Ridership.

The Northstar fare structure proposal is more than current express bus route fares of $2.75 and $4.75. The proposed fare change increase can't be calculated for the Big Lake station. Fare changes for the Elk River, Anoka and Coon Rapids stations are a $1.25 increase. The Fridley station is a $0.50 increase. The fare proposal increases are

weighted against anticipated low-income and minority ridership. The average fare increases for low-income and minority persons are less than non-low-income and non-minority ridership as shown in the chart below.

Station Market Area	2009 Minority Ridership	2009 Non-Minority Ridership	2009 Low-Income Ridersship	2009 Non-Low-Income Ridership	Current Express Peak Fare	Proposed Fare	Fare Change	Average Fare Change for Minority Ridership	Average Fare Change for Non-Minority Ridership	Average Fare Change for Low-Income Ridership	Average Fare Change for Minority Ridership
Big Lake	7	490	17	480	N/A	$ 8.00	N/A	N/A	N/A	N/A	N/A
Elk River	17	1,006	7	1,016	$ 4.75	$ 6.00	$ 1.25				
Anoka	46	857	37	866	$ 3.00	$ 4.00	$ 1.00				
Coon Rapids	57	888	30	915	$ 3.00	$ 4.00	$ 1.00				
Fridley	51	377	29	399	$ 3.00	$ 3.25	$ 0.25				
Total	**178**	**3,618**	**121**	**3,676**			**$ 0.88**	**$ 0.77**	**$ 0.86**	**$ 0.69**	**$ 0.86**

Figure 8. Average Fare Change for Low-Income and Minority Ridership.

The Northstar fare structure proposal is more than current express bus route fares of $3.00 and $4.75. The proposed fare change increase can't be calculated for the Big Lake station. Fare percentage increases for each station include 26% for Elk River, 33% for Anoka and Coon Rapids and 8% from Fridley. The fare percentage change increases are weighted against anticipated low-income and minority ridership. The average fare increases for low-income and minority persons are less than non-low-income and non-minority ridership as shown in the chart below.

Station Market Area	2009 Minority Ridership	2009 Non-Minority Ridership	2009 Low-Income Ridersship	2009 Non-Low-Income Ridership	Current Express Peak Fare	Proposed Fare	Fare Percentage Increase	Average Fare Percentage Change for Minority Ridership	Average Fare Percentage Change for Non-Minority Ridership	Average Fare Percentage Change for Low-Income Ridership	Average Fare Percentage Change for Minority Ridership
Big Lake	7	490	17	480	N/A	$ 8.00	N/A				
Elk River	17	1,006	7	1,016	$ 4.75	$ 6.00	26%				
Anoka	46	857	37	866	$ 3.00	$ 4.00	33%				
Coon Rapids	57	888	30	915	$ 3.00	$ 4.00	33%				
Fridley	51	377	29	399	$ 3.00	$ 3.25	8%				
Total	**178**	**3,618**	**121**	**3,676**				**24%**	**24%**	**22%**	**24%**

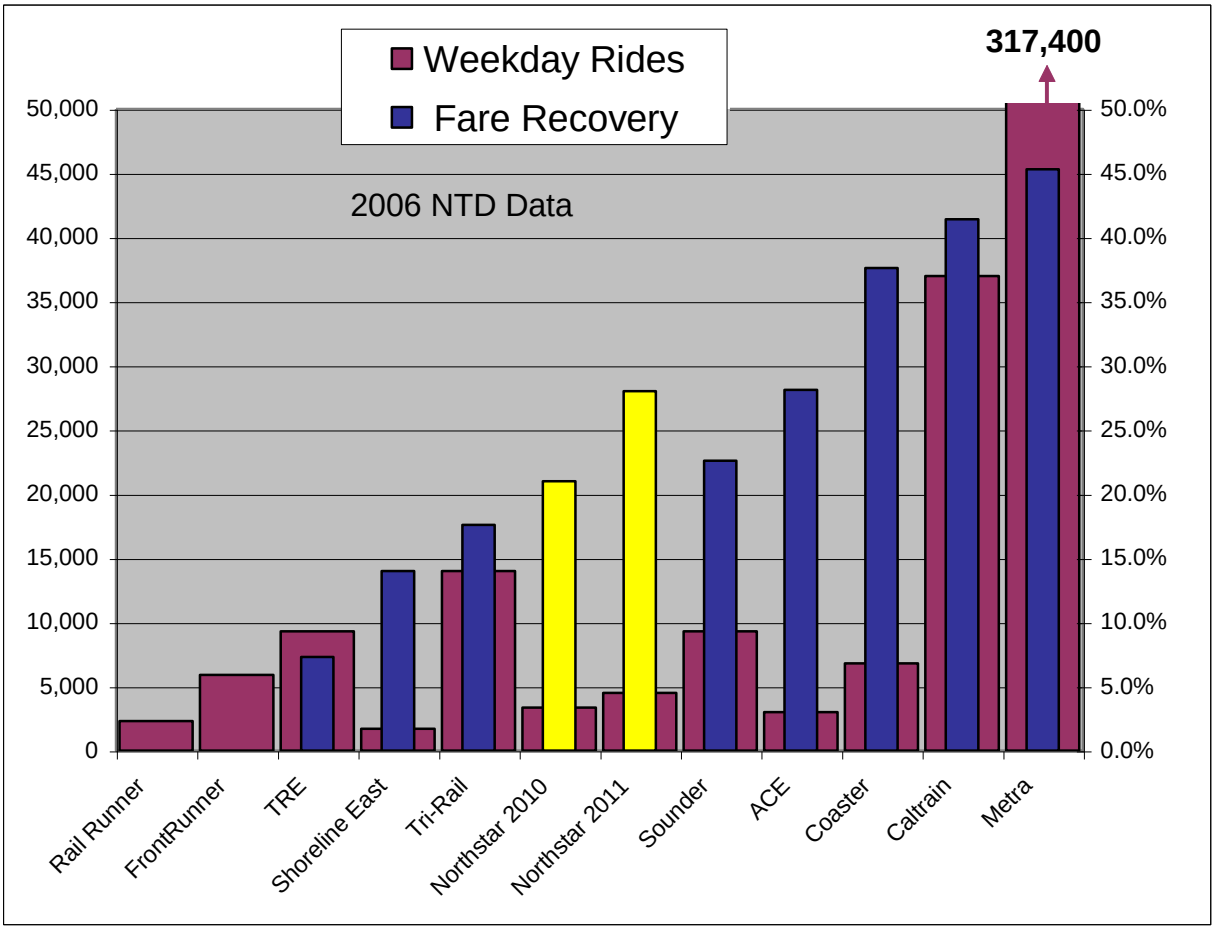
Figure 9. Average Fare Change Percentage for Low-Income and Minority Ridership.

This review finds that the fare structure proposal does not have a disproportionately high and adverse effect on low-income and minority populations.

Attachments

Attachment #1 – Peer-Agency Comparison
Attachment #2 – Notice on Metropolitan Council Website
Attachment #3 – Fare Proposal Outreach Measures
Attachment #4 – Additional Money-saving fare payment options.
Attachment #5 – Estimated Monthly Peak Fare Pass Costs

Attachment #1 - Peer Agency Comparison



*** 2010 & 2011 estimates, Scenario D**

Attachment # 2 – Notice on Metropolitan Council's Website

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Council to hold hearings on proposed fares for Northstar commuter rail

Contact: Bonnie Kollodge
651.602.1357

ST. PAUL – (Feb. 25, 2009) – The Metropolitan Council has scheduled three public hearings in April to receive public comment on proposed fares for the Northstar Line, the state's first commuter rail service set to open in late 2009. The 40-mile Northstar commuter rail line will provide service on existing track along Highways 10 and 47 from Big Lake to downtown Minneapolis.

The Council is proposing fares that are priced according to a tier system, based on the distance away from downtown Minneapolis. The proposed weekday cash fares (one way) to downtown Minneapolis from the five suburban stations anticipated to be open by late 2009 are:

- Big Lake – $8.00
- Elk River – $6.00
- Anoka – $4.00
- Coon Rapids – $4.00
- Fridley – $3.25

For customers not traveling downtown, the proposed one-way fare between stations is $3.25.

Northstar trains will offer weekday service during morning and evening rush hours, as well as regular weekend service and some special event service. Trains will travel at speeds up to 79 mph, with a direct connection to Hiawatha light rail trains in downtown Minneapolis. The trip from Big Lake to downtown Minneapolis is estimated to take about 45 minutes.

During the summer of 2008, a joint committee with representatives from Anoka, Hennepin and Sherburne counties, the Northstar Community Development Authority (NCDA) and Metro Transit reviewed and analyzed fare options for the Northstar commuter rail line and developed a recommendation.

In September 2008, as gasoline prices were peaking, the Council directed Metro Transit to reevaluate the proposed fares, expressing concern that estimated revenues from the recommended fares were too low. Metro Transit and Northstar Project staff reexamined other fare-pricing scenarios and assessed their impact on ridership and revenue, including a fare of up to $10 for each one-way trip between Big Lake and Minneapolis.

The fares being proposed at this time reflect the reevaluation and the relative stabilization of gas prices. The new fare recommendation will be considered at public hearings in April. At the conclusion of the public comment period, a recommendation on the proposed fares will be presented to the NCDA and the Metropolitan Council will make a final decision on the fares in May.

Public hearing schedule:

- **Wednesday, April 8, noon – 1 p.m.**
  Minneapolis Central Library Doty Room
  300 Nicollet Mall, Minneapolis
  Served by Routes 3, 4, 6, 10, 11, 16, 17, 18, 25, 675, 852
- **Wednesday, April 8, 7 – 8 p.m.**
  Sherburne County Government Center Board Room
  13880 Highway 10 (13880 Business Center Drive), Elk River
- **Tuesday, April 14, 6:30 – 7:30 p.m.**
  Anoka County Government Center Board Room (7th floor)
  2100 3rd Avenue, Anoka
  Served by Routes 766, 805, 850, 851, 852

Trip planning services are available at www.metrotransit.org or by calling a transit information representative at 612-373-3333.

More information on Northstar commuter rail.

The public is invited to register in advance to speak at a public hearing by calling the Regional Data Center at 651-602-1140. Members of the public also can comment by e-mailing data.center@metc.state.mn.us.

Comments can be mailed to the Data Center at 390 Robert Street N., St. Paul 55101, or faxed to 651-602-1464. Recorded phone messages can be directed to 651-602-1500 (TTY 651-291-0904). The public comment period closes at 5 p.m. on Friday, April 24.

The Metropolitan Council is the regional planning organization for the seven-county Twin Cities area. It runs the regional bus and light rail system, collects and treats wastewater, manages regional water resources, plans regional parks and administers funds that provide housing opportunities for low- and moderate-income individuals and families. The Council is appointed by and serves at the pleasure of the governor.

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Northstar commuter rail information

More on the proposed Northstar fares (13 pages, pdf)

TO COMMENT ON THE PROPOSED NORTHSTAR FARES

The public is invited to register in advance to speak at a public hearing by calling the Regional Data Center at 651-602-1140. The public also can comment by e-mailing data.center@metc.state.mn.us

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Attachment #4 – Fare Proposal Outreach Measures

The following is a summary of strategies employed to promote public comments for the fare change proposal.

- A Legal Notice was emailed to the State Register for March 9th, Star Tribune for March 8th, Finance and Commerce for March 7th, Anoka County for March 6th, and Star News in Elk River for March 7th.
- Official Metropolitan Council press release that went to:
    - Associated Press
    - Metro and St. Cloud daily newspapers (including the Minnesota Daily)
    - Metro television and radio newsrooms
    - Metro weeklies, specialty publications, and monthly magazines (Downtown Journal, Finance and Commerce, Business Journal, Access Press, Spokesman-Recorder, Pulse, et al)
    - Web news services (including MinnPost)
- An article in the Metropolitan Council's external newsletter *Directions*
- A notice in the *Connect* newsletter which are placed on the entire Metro Transit bus fleet.
- A notice on the Northstar project homepage www.mn-GetOnBoard.com
- An article in the Anoka County newsletter which gets distributed to about 120,000 households
- Information is provided on KARE 11's news website
- An article in the Saint Cloud Times
- Fare information was provided at the Elk River City Council on March 16, 2009 which is also aired on local cable access.
- A taped interview featuring Anoka County Commissioner Dan Erhart was aired on KOOL 108's Anoka Now show aired on March 22 and in early April.

Attachment #4 – Additional Money-saving fare payment options.

- **TransitSchools** – TransitSchools is available only to adult students and staff at post-secondary schools. Participating schools sign an agreement with Metro Transit to order passes on an as-needed basis.
- Tokens and coupons can be used on the Northstar and are only available to social service agencies, schools and Medical providers to allow for transportation to and from medical appointments.
- Round Trip Ticket can be purchased for twice the normal fare to allow customer to prepay their fare at the start of their trip.
- A Mobility fare is offered to customer who have been either certified by Metro Mobility or the State of Minnesota as having a disability and allow a discounted fare to customers riding bus/train service
- Reduced fare is offered during non-rush hour times to Youth 6-12 and Seniors 65+
- Jobseeker program offer a 50% discount to agencies that apply and are awarded funding with the Metropolitan Council's Jobseekers program.

Attachment #5 – Estimated Monthly Peak Fare Pass Costs

Estimated Monthly Peak Fare Pass Costs - Northstar Stations to downtown Minneapolis

Based on 42 Fare Payments per Month

Station Market Area	Current Express Fare	Proposed Fare	Fare Change	Cash Rate		Go-To 31-Day Pass (10% Discount)		Go-To Stored Value (10% Bonus)		SuperSaver 31-Day pass**		SuperSaver Stored Value (10% Bonus)		MetroPass ($76.00 per month for express base fare)***		U of M ($83.91 per semester) & College Pass*		Average Savings
				Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	
Big Lake	N/A	$ 8.00	N/A	N/A	$ 336.00	N/A	$ 323.40	N/A	$ 305.45	N/A	$ 323.49	N/A	$ 305.45	N/A	$ 286.00	N/A	$ 233.94	$ 34.04
Elk River	$ 4.75	$ 6.00	$ 1.25	$ 199.50	$ 252.00	$ 186.90	$ 239.40	$ 181.36	$ 229.09	$ 186.99	$ 239.49	$ 181.36	$ 229.09	$ 149.50	$ 202.00	$ 97.44	$ 149.94	$ 31.86
Anoka	$ 3.00	$ 4.00	$ 1.00	$ 126.00	$ 168.00	$ 113.40	$ 155.40	$ 114.55	$ 152.73	$ 113.49	$ 155.49	$ 114.55	$ 152.73	$ 76.00	$ 118.00	$ 23.94	$ 65.94	$ 29.67
Coon Rapids	$ 3.00	$ 4.00	$ 1.00	$ 126.00	$ 168.00	$ 113.40	$ 155.40	$ 114.55	$ 152.73	$ 113.49	$ 155.49	$ 114.55	$ 152.73	$ 76.00	$ 118.00	$ 23.94	$ 65.94	$ 29.67
Fridley	$ 3.00	$ 3.25	$ 0.25	$ 126.00	$ 136.50	$ 113.40	$ 123.90	$ 114.55	$ 124.09	$ 113.49	$ 155.49	$ 114.55	$ 124.09	$ 76.00	$ 86.50	$ 23.94	$ 34.44	$ 24.36
Total				$ 577.50	$ 724.50	$ 527.10	$ 674.10	$ 525.00	$ 658.64	$ 527.46	$ 705.96	$ 525.00	$ 658.64	$ 377.50	$ 524.50	$ 169.26	$ 316.26	$ 147.68

*Assumes the College Pass costs $83.91 per semester. Based on 147 Fare Payments or a 3 1/2 month school semester.

**Supersaver cards and paper transfers give customers a set rate value of $1.00 to be applied to the purchase of a rail ticket. The costs are based on assumptions that individuals purchase the $3.00 cash fare 31-Day Pass.

***Fare payments are subject to variability depending on an employer's subsidization.

Exhibit - Proposed Route 255 Elimination

DATE: April 8, 2009

TO: Adam Harrington; John Harper; Cyndi Harper; Rebecca McBride; John Levin; Wanda Kirkpatrick;

FROM: Jason Podany

SUBJECT: Title VI Review of Proposed Route 255 Elimination

This memo presents Title VI analysis and documentation of the proposed elimination of Route 255 service change impacts on low-income and minority populations in accordance with Federal Transit Administration (FTA) Title VI Program.

TITLE VI AND ENVIRONMENTAL JUSTICE BACKGROUND

Title VI of the Civil Rights Act of 1964 provides that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial assistance." The FTA issued guidelines on May 14, 2007, FTA Circular 4702.1A, describing the contents of the Title VI compliance to be adopted by recipients of the FTA administered funds for transit programs. The guidelines require transit providers to prevent disparate impact and treatment on minority population when conducting significant service changes like those planned for Route 255. Specifically, the Circular requires that recipients of federal funding "evaluate significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact."

On February 11, 1994, President Clinton issued Executive Order 12898 which states "Each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States." Transit equity concerns arise when wealthier and more educated segments of society receive greater transportation benefits while communities of color or low-income receive or experience higher negative transportation impacts.
Federal Transit Administration (FTA) Title VI and Metropolitan Council guidelines were used to understand impacts on low-income and minority populations. The following group definitions were used.

Minority Population

Minority population is defined as non-white persons, those of Hispanic origin, or those not having origins in any of the original peoples of Europe, North Africa, or the Middle East. Using 2000 Census data, the average minority population (non-white) within the 7-county metro area communities is 16.97%. Census units with minority population greater than 16.97% are defined as predominantly minority areas. A map of predominantly minority areas and Route 255 are included in Attachment #1.

Low-Income Population

Low income means a person whose median household income is at or below the Department of Health and Human Services (DHHS) poverty guidelines. The DHHS

poverty guideline thresholds are based on household sizes and incomes. The 2000 US Census used nearly identical thresholds to define poverty. Using 2000 Census data the percentage of poverty individuals in the seven-county metropolitan area is 6.79%. Census units with population greater than 6.79% are defined as predominantly low-income areas. A map of predominantly low income areas and Route 255 area are included in Attachment #2.

ROUTE 255 ELIMINATION BACKGROUND

The Metropolitan Council implemented Route 255 on January 2, 2003 in response to the opening of the new Wells Fargo Operations Center in Shoreview. Upon opening the center, Wells Fargo relocated a significant number of entry-level positions from downtown Minneapolis locations, and also added positions. Metropolitan Transportation Services (MTS) and Metro Transit responded by implementing Route 250 reverse commute service from downtown Minneapolis and Route 255 from downtown St. Paul. Route 255 was implemented at little cost to the Council by interlining trips with Routes 275 and 860 operated by Lorenz under contract and turning deadhead trips to and from Lorenz's garage into revenue service. In June 2009, operation of Route 860 will transfer to Metro Transit. The garage location will no longer allow for inexpensive operation of Route 255. As a result the Route 255 ridership performance was reexamined.

Route 255 ridership was modest at implementation and has continued to decline through the years. Ridership was examined for the January 5 to January 30th, 2009 time period. It was found that afternoon service had approximately 75 riders or an average of 3.75 riders each afternoon. Morning ridership was similar but statistics were inconsistent so it is assumed that there were approximately the same number of morning riders, for a total of 150 riders during this 20-day time period. Over the same time period Route 255 buses operated in-service for 62 hours. This results in productivity of approximately 2.4 rides per in-service hour. This is significantly below the regional minimum standard of 5 riders per in-service hour for small bus fixed route service. Due to low ridership and limited operating funds to cover increasing costs, staff is recommending elimination of this route.

PUBLIC INPUT PROCESS

A public hearing is being held at 12:00 PM on Tuesday, April 14th at the Wells Fargo Operations Center in Shoreview. The public hearing notice is shown in Attachment #3.

TITLE VI REVIEW

Assessing the Effects on Low-Income and Minority Population

FTA Guidelines:

(1) Assess the effects of the proposed fare or service change on minority and low-income populations.

(a) Route change. For proposed major service changes that would reduce or expand frequency of service or add or eliminate routes, the recipient should produce maps of the routes that would be eliminated, reduced, added, or expanded, overlaid on a demographic map of the service area, that highlights those Census tracts or traffic analysis zones where the total minority and low-income population is greater than the service area average.

(b) Span of service. For proposed changes that would reduce or expand hours and days of service, the recipient should analyze any available information generated from ridership surveys that indicates whether minority and low-income riders are more likely to use the service during the hours and/or days that would be eliminated.

Attachments #1 and #2 show route 255 overlaid onto predominantly low-income or predominantly minority Census Tracts. The maps show that significant low-income and minority population exists in and around the downtown St. Paul area. Route 255 is designed to serve persons traveling from the downtown St. Paul area to the Wells Fargo site. As a result low-income and minority populations may be more likely to be negatively impacted by the loss of Route 255.

Assessing the Service Alternatives

FTA Guidelines:

(2) Assess the alternatives available for people affected by the fare increase or major service change. (a) Service changes. For proposed service changes, the recipient should analyze what, if any, modes of transit or transit routes are available for people affected by the service expansions or reductions. This analysis should compare the travel time and cost of the current route with the travel time and cost to the rider of the alternatives.

Route 255 offers three trips in the morning and three in the evening between downtown St. Paul and Wells Fargo. On average they take approximately 27 minutes to travel between the downtown St. Paul core and Wells Fargo. Route 250 has similar reverse-commute service to Wells Fargo but from downtown Minneapolis. The Route 255 passengers have the option of using Express Route 94 from downtown St. Paul to transfer to the Route 250 service in downtown Minneapolis. The average travel time, including transfer time, is approximately 62 minutes or an additional 31 minutes over the Route 255 option. The fare on this alternative service is the same.

Actions taken to offset the effects

FTA Guidelines:

(3) Describe the actions the agency proposes to minimize, mitigate, or offset any adverse effects of proposed fare and service changes on minority and low-income populations.

Public outreach will consist of promoting the alternative service from downtown St. Paul on Route 94 and Route 250 to Wells Fargo. A transit representative will be attending the open house to assist individuals who are interested in carpooling or vanpooling.

Determination of Disproportionate Impacts

FTA Guidelines:

(4) Determine which, if any of the proposals under consideration would

have a disproportionately high and adverse effect on minority and low-income riders. Recipients can implement a fare increase or major service reduction that would have disproportionately high and adverse effects provided that the recipient demonstrates that the action meets a substantial need that is in the public interest and that alternatives would have more severe adverse effects than the preferred alternative.

Disproportionately High and Adverse Effect means that an adverse effect that:

(1) is predominately borne by a minority population and/or a low-income population, or

(2) will be suffered by the minority and/or low-income population and is appreciably more sever or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.

Route 255 farebox data indicates that many riders are transferring from another bus route, however the data does not record which bus route passengers are transferring from. Due to this technical limitation it is difficult to determine whether the routes they transfer from are coming from predominantly low-income or minority areas.

Wells Fargo staff noted that many of the jobs at the Shoreview worksite are entry-level positions. These positions typically offer lower wages, so it is likely that many Route 255 riders are low-income. Route 255 has an average of less than eight boardings, or four unique passengers, a day.

Thus, while the elimination of Route 255 is likely to have an adverse impact on a small segment of the minority and/or low-income population, this impact is offset by the significant cost savings resulting from the elimination of the route. As the region faces a major funding shortfall for transit operations, retaining this route would force elimination of other service that would likely have a greater negative impact on all transit riders, including minority and low-income riders.

Therefore, notwithstanding the disproportionately high impact on minority and/or low-income populations, this review finds that the elimination of Route 255 is in the public interest and that alternatives would have more severe adverse effects.

Attachments

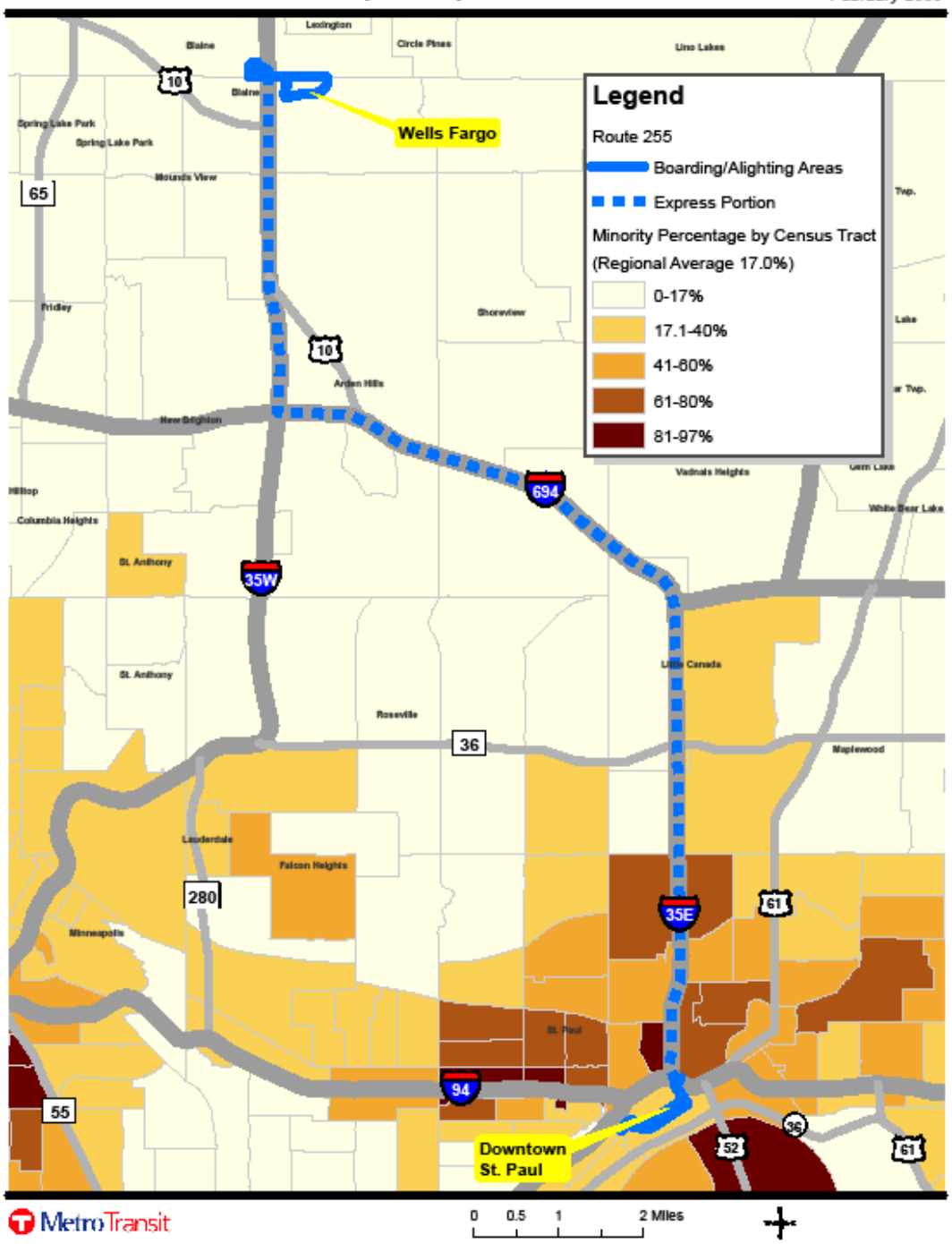
Attachment #1 - Bus Route 255 and Predominantly Minority Census Tracts
Attachment # 2 – Bus Route 255 and Predominantly Low-Income Census Tracts

Attachment #1 – Bus Route 255 and Predominantly Minority Census Tracts

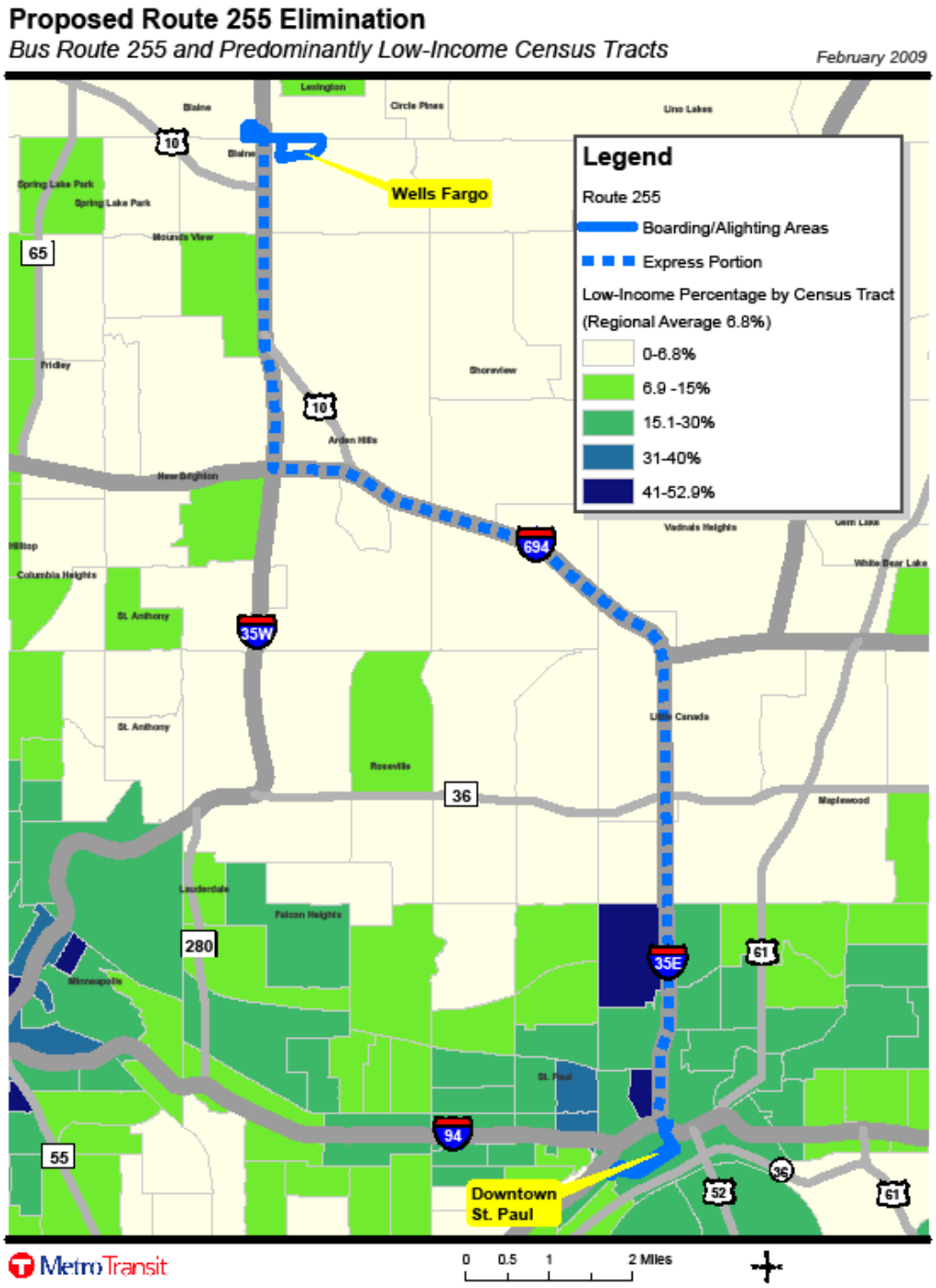
Proposed Route 255 Elimination

Bus Route 255 and Predominantly Minority Census Tracts

February 2009



Attachment #2 – Bus Route 255 and Predominantly Low-Income Census Tracts



Attachment #3 – Public Hearing Notice on Metropolitan Council's Website

Metropolitan Council public hearing to consider elimination of regional transit route 255

The Metropolitan Council will conduct a public hearing to receive public comment on the proposed elimination of regional transit route 255, effective May 30, 2009.

Route 255 provides reverse commute service from downtown St. Paul to the Wells Fargo operations center in Shoreview. Commuter services staff will also be present at the hearing to discuss alternative commuting options.
Specific information will be posted at www.metrocouncil.org and available at the Metropolitan Council Regional Data Center in mid-March.

All interested persons are encouraged to attend the hearing and offer comments. Those attending are strongly encouraged to register in advance by calling the Data Center at 651-602-1140.

- **The public hearing will be held:**
  12 noon, Tuesday, April 14, 2009
  Wells Fargo Operations Center
  Second Floor Lunchroom
  1801 Parkview Drive
  Shoreview, MN 55126

The Council will also receive comments on the proposed route elimination through **April 24** as follows:

- Written comments: Metropolitan Council Data Center, 390 N. Robert St., St. Paul, 55101
- Fax comments to: Data Center at 651-602-1464
- Send TTY comments to: Data Center at 651-291-0904
- Email: data.center@metc.state.mn.us
- Record comments on Council's Public Comment Line at 651-602-1500
- Comments must be received by **5 p.m., Friday, April 24**.

Exhibit - Northstar Commuter Rail Bus Service Plan

Title VI Review:
Northstar Commuter Rail Bus Service Plan

August 2009

Prepared by SRF Consulting Group, Inc.
SRF No. 6841

Introduction

Northstar Commuter Rail will enter service in late 2009, connecting northwest Twin Cities suburbs in the Highway 10 corridor to downtown Minneapolis. The 40-mile rail line will include stations at Big Lake, Elk River, Anoka, Coon Rapids/Riverdale, Fridley, and a downtown terminal adjacent to Target Field in Minneapolis, where customers will be able to access the regional transit network through connections to the Hiawatha light rail line and local bus service at the 5th Street Garage Transit Center, as shown in Figure 1. Weekday service will consist of five peak-direction round trips and one reverse-commute round trip, each with the capacity to carry approximately 600 passengers.

Figure 1: Northstar Commuter Rail alignment and stations.

The Northstar corridor is currently well served by local and express bus service. In anticipation of commuter rail service, Metro Transit staff has prepared a bus service plan for the corridor. The plan recommends additional bus service to complement Northstar Commuter Rail, modifications of existing service to facilitate multimodal connections, and elimination of some bus service that will be replaced by rail. Implementation of Northstar Commuter Rail and the related bus service plan represents a major service change, thereby warranting a review of environmental justice and transit equity in the corridor. This report contains analysis and documentation of effects of this service change on low-income and minority populations in accordance with Federal Transit Administration (FTA) Title VI guidelines.

Description of Service Changes

Modifications in the Northstar Commuter Rail bus service plan affect six bus routes in the corridor, summarized in Table 1.

Table 1: Summary of service changes.

Route	Type	Description	Changes
811	Local	119th neighborhood connection to Coon Rapids/Riverdale station, serves former 851	New route replaces local tail of Route 851
824	Limited Stop	Northtown–Monroe–University Ave–Downtown Minneapolis	Connect to Fridley station and adjust trip times on University Ave
851	Express	Anoka–Riverdale P&R–Downtown Minneapolis	Route eliminated and replaced by rail and Route 811
852	Express	Anoka–Coon Rapids–Northtown–Downtown Minneapolis	Connect off-peak trips to Anoka, Coon Rapids/Riverdale, and Fridley stations
888	Express	Elk River–Downtown Minneapolis	Route eliminated and replaced by rail

New Service

One new feeder route will be established to connect residential areas to Northstar Commuter Rail. Local Route 811 will connect the neighborhood immediately west of the Coon Rapids/Riverdale station, currently separated by railroad tracks, to the station. The route replaces service to residential areas on 7th Avenue, Round Lake Boulevard, and Bunker Lake Boulevard currently provided by Route 851.

Modified Existing Service

Two existing routes will be modified to improve connections in the corridor. The schedule of express Route 852 will be modified to provide midday and evening service to the Anoka, Coon Rapids/Riverdale, and Fridley stations. One midday round trip and one northbound evening trip will be rerouted to supplement peak-period Northstar Commuter Rail service. In addition, limited stop Route 824 will be rerouted to provide a feeder route connection with the Fridley station to residents living south of Northtown on Monroe and Osborne streets.

Eliminated Service

Northstar Commuter Rail service will duplicate some existing bus service in the corridor. As a result, two routes will be eliminated concurrent with rail service implementation. Route 851, which provides peak express service from Anoka and Coon Rapids to downtown Minneapolis, will be replaced by rail service to the Anoka and Coon Rapids/Riverdale stations. The local tail of Route 851 will be replaced by peak feeder Route 811. Route 888, which provides peak express service from Elk River and Coon Rapids to downtown Minneapolis, will also be replaced by rail service.

Title VI and Environmental Justice

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs receiving federal financial assistance. Title VI states that “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” In 1994, President Clinton issued Executive Order 12898, which states that each federal agency “shall make achieving environmental justice part of its mission by identifying and addressing disproportionately high and adverse human

health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."

To that end, the Federal Transit Administration (FTA) issued Circular 4702.1A in 2007, which delineates Title VI compliance procedures for recipients of FTA-administered transit program funds. Specifically, the FTA requires recipients, including Metro Transit, to "evaluate significant system-wide service changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact." This review fulfills this requirement as it relates to the service changes in the Northstar Commuter Rail bus service plan.

Defining Low-Income and Minority Populations

This review uses FTA definitions related to Title VI-protected populations and geographic areas. Each of these categories is defined and described in this section.

Predominately Low-Income Areas

The FTA defines a low-income individual as one whose household income is at or below the poverty guidelines set by the Department of Health and Human Services (DHHS). DHHS poverty thresholds are based on household size and income, and are nearly identical to the guidelines used to define poverty in the 2000 U.S. Census, which form the basis of this review. FTA defines a predominately low-income area as one where the proportion of low-income persons residing in that area exceeds the average proportion of low-income persons in the overall service area, defined in this review as the seven-county Twin Cities Metropolitan Area (TCMA). Based on 2000 Census data, the percentage of low-income individuals in the TCMA is 6.79 percent. Low-income areas are thereby defined as those whose low-income population is greater than 6.79 percent of the overall area population.

Predominately Minority Areas

The FTA defines a minority person as one who self-identifies as American Indian/Alaska Native, Asian, Black or African American, Hispanic or Latino, or Native Hawaiian/Pacific Islander. A predominately minority area is defined as one where the average proportion of minority persons exceeds the average proportion of minority persons in the overall service area, defined in this review as the seven-county Twin Cities Metropolitan Area (TCMA). Based on 2000 Census data, the percentage of minority individuals in the TCMA is 16.97 percent. Minority areas are thereby defined as those whose minority population is greater than 16.97 percent of the overall area population.

Service Change Analysis Method

A geographic information systems (GIS)-based approach is employed to determine the location and net magnitude of service changes resulting from the Northstar Commuter Rail bus service plan. The analysis consists of three steps:

Define the geographic extent of the Northstar bus service area

Identify predominately low-income and minority census divisions within the corridor

Allocate current and future transit service levels to census divisions and determine service change.

Defining the Service Area

The service area in this analysis includes all areas served by the modified bus routes in the bus service plan, as well as areas served by Northstar Commuter Rail stations. In past Title VI

analyses, Metro Transit established guidelines for measuring the geographic area served by each transit mode. These distances are approximately equal to the distances transit users are willing to walk to access the respective mode. Bus route service areas are defined as all areas within ¼ mile of any portion of the route where boarding occurs. Rail service areas are defined as all areas within ½ mile of a rail station.

Using GIS, ¼-mile buffers are drawn around boarding segments of new, modified, or eliminated bus routes and ½-mile buffers are drawn around Northstar Commuter Rail stations. Census divisions intersecting these buffers are selected for analysis. The service area buffers intersect census divisions in 11 cities, including Big Lake, Elk River, Ramsey, Anoka, Andover, Coon Rapids, Blaine, Spring Lake Park, Fridley, Columbia Heights, and Minneapolis. In the vicinity of the Fridley station, the buffered area also includes census divisions west of the Mississippi River in Brooklyn Park. Because there is no river crossing between these census divisions and the Fridley station, these divisions are excluded from the service area.

Downtown Minneapolis

Because Northstar Commuter Rail is intended to primarily serve the inbound commuter market, the focus of this analysis is peak-direction travel oriented toward downtown Minneapolis. As such, the analysis only examines populations residing outside the downtown area. Although some reverse-commute service is provided in this corridor for users originating in downtown Minneapolis, none of this service will be reduced as a result of the bus service plan; on the contrary, these users will gain access to additional outbound Northstar Commuter Rail service and outbound trips on Route 852. Because the bus service plan will positively expand access to reverse-commute transit service for downtown Minneapolis residents, these users need not be examined as part of the inbound analysis. In order to isolate the effects of the bus service plan on the inbound commuter market, census divisions within downtown Minneapolis are excluded from this analysis[1].

Identifying Low-Income and Minority Areas in the Corridor

The service area buffers are overlaid on census divisions to determine the geographic extent of the changes within the Northstar Commuter Rail bus service plan. This analysis employs the smallest census division at which appropriate demographic data is available to determine low-income and minority areas. For the low-income analysis, block group data is available. For the minority analysis, block data is available. Because the two geographic units are not the same, two separate spatial analyses are conducted to determine service areas and service change impacts.

Predominately low-income areas in the Northstar bus service corridor are identified using block group-level demographic data from the 2000 Census. The service area contains 100 block groups. Of these block groups, 48 are defined as predominately low-income and 50 are predominately non-low-income. The locations of predominately low-income and predominately non-low-income block groups in the corridor service area are shown in Figure 2.

Predominately minority areas in the Northstar bus service corridor are identified using block-level demographic data from the 2000 Census. The corridor contains 1,259 census blocks. Of these blocks, 190 are defined as predominately minority and 1,069 are predominately non-

[1] For this analysis, downtown Minneapolis is defined as the buffered service area south and west of the Mississippi River. Census divisions that are within the buffered service area but excluded from analysis are shown in black in Figure 2 through Figure 5.

minority. Locations of predominately minority and predominately non-minority blocks in the corridor service area are shown in Figure 3.

Allocating Service Levels and Determining Service Change

Once the rail and bus service buffers are overlaid on the appropriate census divisions, trip count information within the service buffers is spatially associated with each census division. Current service levels are equal to bus route trip counts as of June 2009. Future service levels are determined by adding trips from the modified bus network to rail trips available, if the census division is located within a rail station service area.

The change in service level is calculated for each census division by subtracting current trips from future trips, as shown:

Future trips available within census division (*modified bus routes + rail stations*)	**-**	**Current trips available within census division (*existing bus routes*)**	**=**	**Change in service by census division**

After the absolute change in the number of trips is calculated, a percentage change figure is found by dividing the change in service by the existing service level. To minimize artificial skewing from newly served areas, all percentage change figures greater than 100 percent or those that are incalculable due to no existing service were adjusted to 100 percent. For example, a percentage change figure cannot be calculated for Big Lake census divisions, where no transit service currently exists.

Evaluation of Impacts and Benefits

Impacts and benefits of the Northstar Commuter Rail bus service plan are evaluated separately for low-income and minority populations.

Impacts on Low-Income Populations

There are a total of 100 block groups within the Northstar bus service corridor, of which 48 are predominately low-income and 52 are predominately non-low-income. The change in service by block group as a result of the bus service plan is represented in Figure 4. Table 2 contains the current and future trip count averages for low-income, non-low-income, and all block groups.

Table 2: Current and Future Service Levels for Low-Income and Non-Low-Income Block Groups

Income Status	**Number of Block Groups**	**Average Current Trips**	**Average Future Trips**	**Average Change in Trips**
Low-Income	48	16.35	18.81	+ 2.46
Non-Low-Income	52	22.15	24.25	+ 2.10
TOTAL	100	19.37	21.64	+ 2.27

Dividing the change in trips by the existing trip count yields the percent change in service for each block group. Where necessary, percent change figures are adjusted as discussed above. Table 3 displays the adjusted overall average change in service levels across the corridor for low-income, non-low-income, and all block groups.

Table 3: Overall Change in Service for Low-Income and Non-Low-Income Block Groups

Income Status	**Number of Block Groups**	**Adjusted Average Percent Change in Service**
Low-Income	48	14.7%
Non-Low-Income	52	10.5%
TOTAL	100	12.5%

Both low-income and non-low-income block groups experience an overall average increase in level of transit service as a result of the bus service plan. The average census block group sees

an increase in transit service availability of 12.5 percent over current service levels. Moreover, the average overall increase in service is greater for low-income block groups than for non-low-income block groups. While low-income block groups experience a 14.7 percent increase in service, non-low-income areas experience a 10.5 percent increase in service.
The results of this analysis show that the Northstar Commuter Rail bus service plan does not disparately affect low-income areas.

Impacts on Minority Populations

There are a total of 1,259 blocks within the Northstar bus service corridor, of which 1,069 are considered non-minority and 190 are predominately minority. The change in service by block group as a result of the Northstar Commuter Rail bus service plan is represented in Figure 5.
Table 4: Current and Future Service Levels for Minority and Non-Minority Blocks

Minority Status	**Number of Block Groups**	**Average Current Trips**	**Average Future Trips**	**Average Change in Trips**
Minority	190	12.27	14.58	+ 2.31
Non-Minority	1,069	18.43	20.23	+ 1.80
TOTAL	1,259	17.50	19.38	+ 1.88

Dividing the change in trips by the existing trip count yields the percent change in service for each block group. Where necessary, percent change figures are adjusted as discussed above. Table 5 contains the adjusted overall average change in service levels across the corridor for minority blocks, non-minority blocks, and all blocks.
Table 5: Overall Change in Service for Minority and Non-Minority Blocks

Minority Status	**Number of Blocks**	**Adjusted Average Percent Change in Service**
Minority	190	13.6%
Non-Minority	1,069	12.4%
TOTAL	1,259	12.6%

Both minority and non-minority blocks experience an overall average increase in level of transit service as a result of the bus service plan. The average census block in the corridor sees an increase in service availability of 12.6 percent over current service levels. Moreover, the predominately minority census blocks in the corridor experience a greater increase in service than the predominately non-minority census blocks.
The results of this analysis show that the Northstar Commuter Rail bus service plan does not disparately affect minority areas.

Conclusion

Overall, the Northstar Commuter Rail bus service plan does not result in a negative impact to predominately minority and predominately low-income areas in the service corridor.
This review finds that the service changes associated with the bus service plan do not disproportionately and adversely affect minority populations or low-income populations. On the contrary, in several cases the bus service plan would result in minority and low-income populations receiving greater benefits than non-minority or non-low-income populations. Because this review finds no disproportionately adverse effects of this service change on minority and low-income populations, no discussion of mitigative measures is required.

APPENDIX A: Census Block Groups for Low-Income Analysis

APPENDIX B: Census Blocks for Minority Analysis

Exhibit – Route 255 Elimination

DATE: April 8, 2009
TO: Adam Harrington; John Harper; Cyndi Harper; Rebecca McBride; John Levin; Wanda Kirkpatrick;

FROM: Jason Podany

SUBJECT: Title VI Review of Proposed Route 255 Elimination

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TITLE VI AND ENVIRONMENTAL JUSTICE BACKGROUND

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Federal Transit Administration (FTA) Title VI and Metropolitan Council guidelines were used to understand impacts on low-income and minority populations. The following group definitions were used.

Minority Population

Minority population is defined as non-white persons, those of Hispanic origin, or those not having origins in any of the original peoples of Europe, North Africa, or the Middle East. Using 2000 Census data, the average minority

population (non-white) within the 7-county metro area communities is 16.97%. Census units with minority population greater than 16.97% are defined as predominantly minority areas. A map of predominantly minority areas and Route 255 are included in Attachment #1.

Low-Income Population

Low income means a person whose median household income is at or below the Department of Health and Human Services (DHHS) poverty guidelines. The DHHS poverty guideline thresholds are based on household sizes and incomes. The 2000 US Census used nearly identical thresholds to define poverty. Using 2000 Census data the percentage of poverty individuals in the seven-county metropolitan area is 6.79%. Census units with population greater than 6.79% are defined as predominantly low-income areas. A map of predominantly low income areas and Route 255 area are included in Attachment #2.

ROUTE 255 ELIMINATION BACKGROUND

The Metropolitan Council implemented Route 255 on January 2, 2003 in response to the opening of the new Wells Fargo Operations Center in Shoreview. Upon opening the center, Wells Fargo relocated a significant number of entry-level positions from downtown Minneapolis locations, and also added positions. Metropolitan Transportation Services (MTS) and Metro Transit responded by implementing Route 250 reverse commute service from downtown Minneapolis and Route 255 from downtown St. Paul. Route 255 was implemented at little cost to the Council by interlining trips with Routes 275 and 860 operated by Lorenz under contract and turning deadhead trips to and from Lorenz's garage into revenue service. In June 2009, operation of Route 860 will transfer to Metro Transit. The garage location will no longer allow for inexpensive operation of Route 255. As a result the Route 255 ridership performance was reexamined.

Route 255 ridership was modest at implementation and has continued to decline through the years. Ridership was examined for the January 5 to January 30th, 2009 time period. It was found that afternoon service had approximately 75 riders or an average of 3.75 riders each afternoon. Morning ridership was similar but statistics were inconsistent so it is assumed that there were approximately the same number of morning riders, for a total of 150 riders during this 20-day time period. Over the same time period Route 255 buses operated in-service for 62 hours. This results in productivity of approximately 2.4 rides per in-service hour. This is significantly below the regional minimum standard of 5 riders per in-service hour for small bus fixed route service. Due to low ridership and limited operating funds to cover increasing costs, staff is recommending elimination of this route.

PUBLIC INPUT PROCESS

A public hearing is being held at 12:00 PM on Tuesday, April 14th at the Wells Fargo Operations Center in Shoreview. The public hearing notice is shown in Attachment #3.

TITLE VI REVIEW

Assessing the Effects on Low-Income and Minority Population

FTA Guidelines:

(1) Assess the effects of the proposed fare or service change

on minority and low-income populations.

(a) Route change. For proposed major service changes that would reduce or expand frequency of service or add or eliminate routes, the recipient should produce maps of the routes that would be eliminated, reduced, added, or expanded, overlaid on a demographic map of the service area, that highlights those Census tracts or traffic analysis zones where the total minority and low-income population is greater than the service area average.

(b) Span of service. For proposed changes that would reduce or expand hours and days of service, the recipient should analyze any available information generated from ridership surveys that indicates whether minority and low-income riders are more likely to use the service during the hours and/or days that would be eliminated.

Attachments #1 and #2 show route 255 overlaid onto predominantly low-income or predominantly minority Census Tracts. The maps show that significant low-income and minority population exists in and around the downtown St. Paul area. Route 255 is designed to serve persons traveling from the downtown St. Paul area to the Wells Fargo site. As a result low-income and minority populations may be more likely to be negatively impacted by the loss of Route 255.

Assessing the Service Alternatives

FTA Guidelines:

(2) Assess the alternatives available for people affected by the fare increase or major service change. (a) Service changes. For proposed service changes, the recipient should analyze what, if any, modes of transit or transit routes are available for people affected by the service expansions or reductions. This analysis should compare the travel time and cost of the current route with the travel time and cost to the rider of the alternatives.

Route 255 offers three trips in the morning and three in the evening between downtown St. Paul and Wells Fargo. On average they take approximately 27 minutes to travel between the downtown St. Paul core and Wells Fargo. Route 250 has similar reverse-commute service to Wells Fargo but from downtown Minneapolis. The Route 255 passengers have the option of using Express Route 94 from downtown St. Paul to transfer to the Route 250 service in downtown Minneapolis. The average travel time, including transfer time, is approximately 62 minutes or an additional 31 minutes over the Route 255 option. The fare on this alternative service is the same.

Actions taken to offset the effects

FTA Guidelines:

(3) Describe the actions the agency proposes to minimize, mitigate, or offset any adverse effects of proposed fare and service changes on minority and low-income populations.

Public outreach will consist of promoting the alternative service from downtown St. Paul on Route 94 and Route 250 to Wells Fargo. A transit representative will be attending the open house to assist individuals who are interested in carpooling or vanpooling.

Determination of Disproportionate Impacts

FTA Guidelines:

(4) Determine which, if any of the proposals under consideration would have a disproportionately high and adverse effect on minority and low-income riders. Recipients can implement a fare increase or major service reduction that would have disproportionately high and adverse effects provided that the recipient demonstrates that the action meets a substantial need that is in the public interest and that alternatives would have more severe adverse effects than the preferred alternative.

Disproportionately High and Adverse Effect means that an adverse effect that:

(1) is predominately borne by a minority population and/or a low-income population, or

(2) will be suffered by the minority and/or low-income population and is appreciably more sever or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.

Route 255 farebox data indicates that many riders are transferring from another bus route, however the data does not record which bus route passengers are transferring from. Due to this technical limitation it is difficult to determine whether the routes they transfer from are coming from predominantly low-income or minority areas.

Wells Fargo staff noted that many of the jobs at the Shoreview worksite are entry-level positions. These positions typically offer lower wages, so it is likely that many Route 255 riders are low-income. Route 255 has an average of less than eight boardings, or four unique passengers, a day.

Thus, while the elimination of Route 255 is likely to have an adverse impact on a small segment of the minority and/or low-income population, this impact is offset by the significant cost savings resulting from the elimination of the route. As the region faces a major funding shortfall for transit operations, retaining this route would force elimination of other service that would likely have a greater negative impact on all transit riders, including minority and low-income riders.

Therefore, notwithstanding the disproportionately high impact on minority and/or low-income populations, this review finds that the elimination of Route 255 is in the public interest and that alternatives would have more severe adverse effects.

Attachments

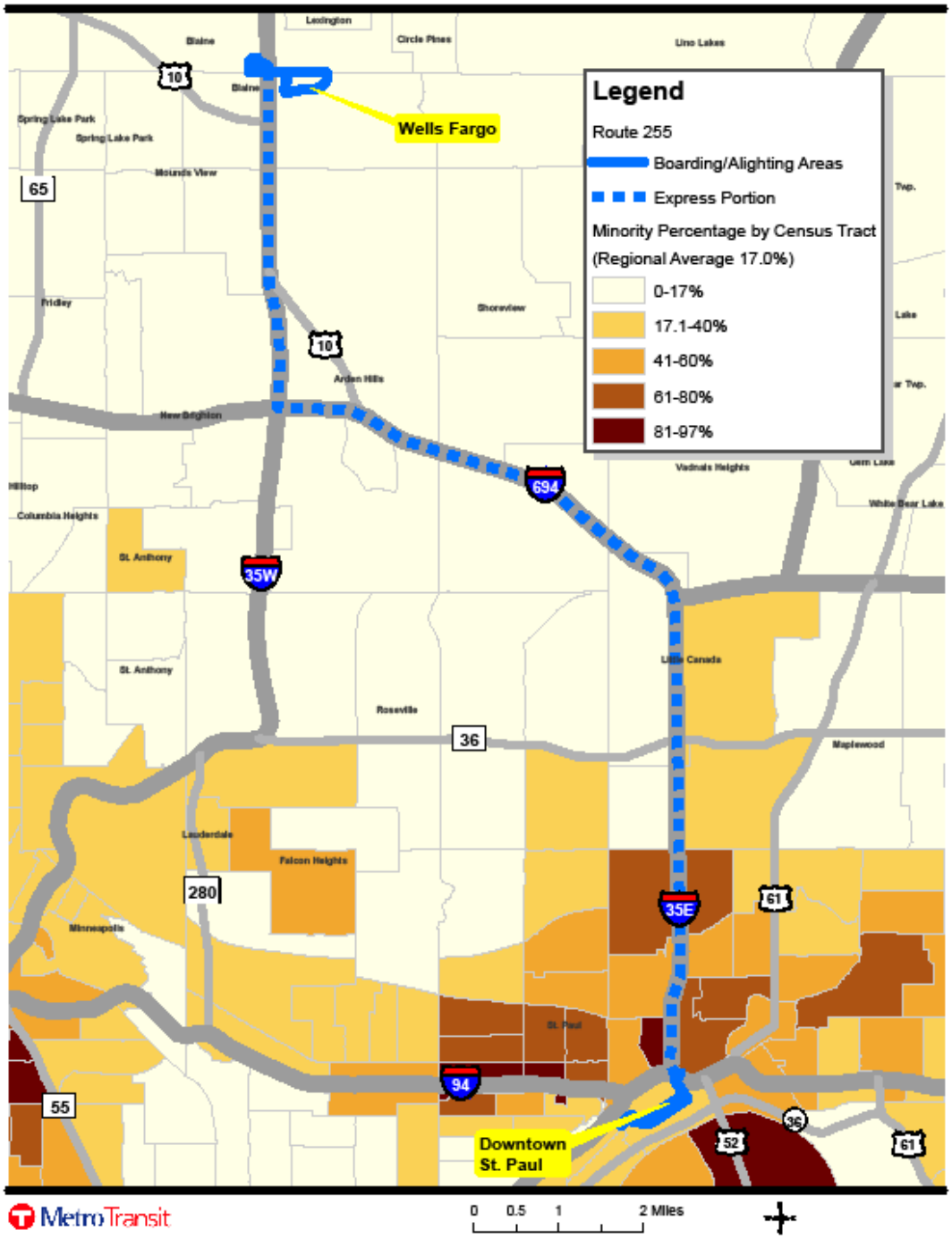
Attachment #1 - Bus Route 255 and Predominantly Minority Census Tracts
Attachment # 2 – Bus Route 255 and Predominantly Low-Income Census Tracts

Attachment #1 – Bus Route 255 and Predominantly Minority Census Tracts

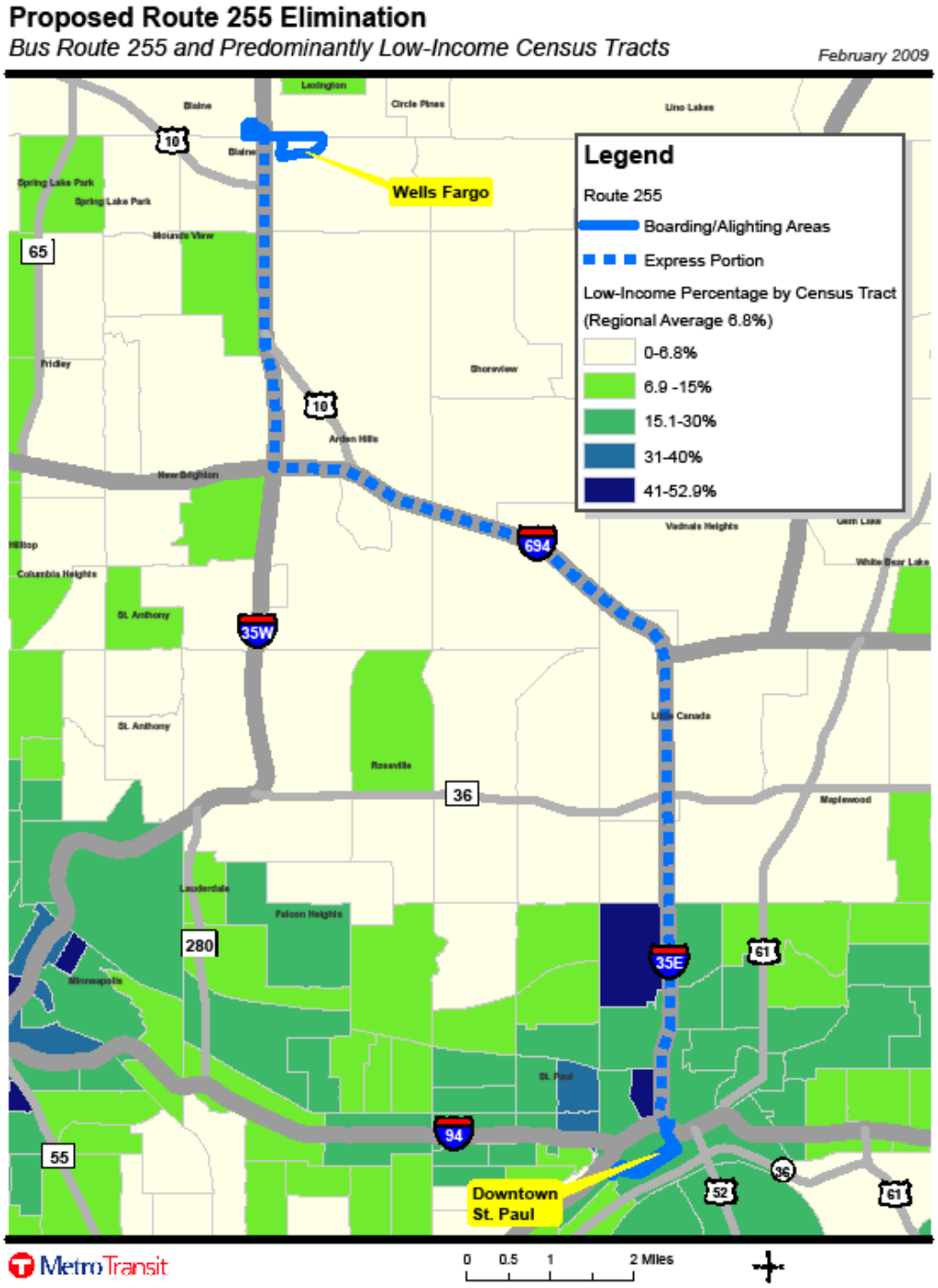
Proposed Route 255 Elimination

Bus Route 255 and Predominantly Minority Census Tracts

February 2009



Attachment #2 – Bus Route 255 and Predominantly Low-Income Census Tracts



Attachment #3 – Public Hearing Notice on Metropolitan Council's Website

Metropolitan Council public hearing to consider elimination of regional transit route 255

The Metropolitan Council will conduct a public hearing to receive public comment on the proposed elimination of regional transit route 255, effective May 30, 2009.

Route 255 provides reverse commute service from downtown St. Paul to the Wells Fargo operations center in Shoreview. Commuter services staff will also be present at the hearing to discuss alternative commuting options.
Specific information will be posted at www.metrocouncil.org and available at the Metropolitan Council Regional Data Center in mid-March.

All interested persons are encouraged to attend the hearing and offer comments. Those attending are strongly encouraged to register in advance by calling the Data Center at 651-602-1140.

- **The public hearing will be held:**
  12 noon, Tuesday, April 14, 2009
  Wells Fargo Operations Center
  Second Floor Lunchroom
  1801 Parkview Drive
  Shoreview, MN 55126

The Council will also receive comments on the proposed route elimination through **April 24** as follows:

- Written comments: Metropolitan Council Data Center, 390 N. Robert St., St. Paul, 55101
- Fax comments to: Data Center at 651-602-1464
- Send TTY comments to: Data Center at 651-291-0904
- Email: data.center@metc.state.mn.us
- Record comments on Council's Public Comment Line at 651-602-1500
- Comments must be received by **5 p.m., Friday, April 24**.

1

Business Item

Transportation Committee Item: **SW** 2009-156 **Meeting date: May 11, 2009**

For Metropolitan Council Meeting: May 13, 2009

Date: April 30, 2009
Subject: Authorization to Terminate Route 255
District(s), Member(s): District 10 - Kris Sanda
District 13 – Richard Aguilar
Policy/Legal Reference: Council Policy 1-3 Transportation Planning and Transit Services,
Procedure 1-3a Transportation Service Changes and Restructuring,
Policy 1-3d and Policy 2-1 Public Accountability to the Public,
Staff Prepared/Presented: Arlene McCarty, Director MTS (651)602-1754
Gerri Sutton, Asst Dir – Contract Transit Services (651)602-1672
John Harper, Supervisor – Contract Transit Services (651)602-1744
Rebecca McBride, Project Administrator (651)602-1722
Division/Department: Metropolitan Transportation Services (MTS)

Proposed Action

That the Metropolitan Council authorize the termination of Route 255, providing reverse commute service
between downtown St. Paul and the Wells Fargo Operations Center in Shoreview, effective May 30, 2009.

Background

The Metropolitan Council implemented Route 255 on January 2, 2003 in response to the opening of the new
Wells Fargo Operations Center in Shoreview. At that time, Wells Fargo relocated a significant number of entry-level
positions from downtown Minneapolis locations, and also added positions. MTS and Metro Transit
responded by implementing reverse commute service to Shoreview from downtown Minneapolis on Route 250
and from downtown St. Paul on Route 255. Ridership from St. Paul was modest at implementation, has
continued to decline through the years, and now stands at less than 10 rides per day

Following approval by the Council on February 25, 2009, a public hearing was held at the Wells Fargo
Operations Center on April 14th, 2009 to solicit comments related to the route elimination. Staff from MTS and
Metro Transit were available to offer alternative transportation options. Public comments regarding the
elimination of this route were accepted through 5:00 pm, Friday, April 24th.
A report of public comments from the Public Hearing is available in the Metropolitan Council Data Center.
Summary information on the Public Hearing includes:
 Eleven people attended the hearing, including seven riders of the route. Council member Sanda
addressed the hearing attendees.
 Three riders testified at the public hearing and one written comment was submitted to the Data center.
 Public comment was a general understanding that the route cannot operate at current levels but would
appreciate keeping one trip in the morning and one in the evening.

Rationale

Due to very low ridership and much higher than acceptable subsidy per passenger, staff recommends eliminating
Route 255. The ridership is too low to justify retaining one morning and evening trip
2

Funding

The Council spends approximately $125,000 per year to subsidize this route. The funding previously assigned
to this route will be redistributed to support the operation of other routes.

Known Support / Opposition

Opposition to route 255 termination comes from the current ridership. They have requested to keep one trip
each morning and evening.

Exhibit - I-35W & 46th St Bus Service Plan

Title VI Review: I-35W/46th Street Station Bus Service Plan
August 2010

Prepared by SRF Consulting Group, Inc.
SRF No. 7081

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Introduction

A new transit station will open in late 2010 on I-35W at 46th Street in south Minneapolis. The station's online position between the northbound and southbound lanes of the freeway will allow buses to board and alight passengers without leaving the freeway, while the two-level design will enable transfers between freeway-level buses on I-35W and local routes operating on the 46th Street bridge. In anticipation of the station opening, Metro Transit staff has prepared a bus service plan to restructure several routes in the station service area and the I-35W corridor.

Implementation of the I-35W/46th Street Station bus service plan represents a major service change, thereby warranting a Title VI review. This report contains analysis and documentation of effects of this service change on low-income and minority populations in accordance with Federal Transit Administration (FTA) Title VI guidelines.

Draft and Final Service Plans

This report presents analysis for two iterations of the I-35W/46th Street Station bus service plan. The draft service plan was completed in March 2010 and a Title VI analysis was conducted at that time. Modifications were made to the draft plan in response to public comments and realization of additional opportunities for system operating efficiencies. Metro Transit completed the final service plan in August 2010, at which time a second Title VI analysis was conducted. Complete Title VI results for each version are presented in this report.

Description of Service Changes

Modifications in the draft and final I-35W/46th Street Station bus service plans affect 14 bus routes in the corridor, summarized in Table 6.

Table 6: Summary of Service Changes

Route	Type	Description	Draft Service Plan	Final Service Plan
11	Local	4th Ave S	New layover location, no changes to service availability	Extend limited service to 50th St & Pleasant Ave to serve Washburn High School
18	Local	Nicollet Ave/Grand Ave	All 18G trips extended to terminate at 46th/Nicollet; 18G trips added	All 18G trips extended to terminate at 46th/Nicollet; walking distance to new station.
46	Local	50th St/46th St Crosstown	Extension replaces Route 146; frequency enhanced	Partially replaces Route 146 and Route 152; frequency enhanced in peak periods
113	Limited Stop	Grand Ave – Lyndale Ave – U of M	Extended to 56th & Lyndale	Extended to 56th & Lyndale
135	Limited Stop	Grand Ave – 35th/36th – Downtown	Extended to 53rd & Lyndale	Extended in PM to 48th & Grand; AM service slightly reduced
146	Limited Stop	Vernon Ave – 50th St – Downtown	Route eliminated and replaced by Routes 46, 135	Route retained; service slightly reduced
152	Limited Stop	Southdale – France Ave – 50th St – U of M	Route eliminated and replaced by Route 579	Route eliminated and replaced by Routes 46 and 579 connecting to new station.
156	Limited Stop	58th St – 56th St – Diamond Lake – Downtown	Additional 156X shuttles in AM/PM peaks	Additional 156X shuttles in AM/PM peaks connecting with Route 535
535	Limited Stop	Bloomington – Richfield – Downtown	Frequency enhanced; replaces Route 576 in Richfield; all trips serve I-35W/46th Street Station	Peak frequency enhanced; replaces Route 576 in Richfield; all trips serve I-35W and 46th Street Station
558	Express	Southtown – Lyndale Ave – Penn Ave – Downtown	1 AM and 1 PM trip added to P (Penn Avenue) branch during fringe of peaks	1 AM and 1 PM trip added to P (Penn Avenue) branch during fringe of peaks
576	Express	South Bloomington – Knox P&R – Downtown	Route eliminated and replaced by Route 535	Route eliminated and replaced by Route 535, Route 558
578	Express	Edina – Southdale – Downtown	Reverse commute trips serve I-35W/46th Street Station	Reverse commute trips serve I-35W and 46th Street Station
579	Express	Southdale – U of M	All trips serve I-35W/46th Street Station	All trips serve I-35W and 46th Street Station. Add 2nd trip during summer

597	Express	West Bloomington – Downtown	All trips serve I-35W/46th Street Station	Reverse commute trips serve I-35W/46th Street Station

Title VI and Environmental Justice

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs receiving federal financial assistance. Title VI states that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." In 1994, President Clinton issued Executive Order 12898, which states that each federal agency "shall make achieving environmental justice part of its mission by identifying and addressing disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."

To that end, the Federal Transit Administration (FTA) issued Circular 4702.1A in 2007, which delineates Title VI compliance procedures for recipients of FTA-administered transit program funds. Specifically, the FTA requires recipients, including Metro Transit, to "evaluate significant system-wide service changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact." This review fulfills this requirement as it relates to the service changes in the I-35W/46th Street Station bus service plan.

Defining Low-Income and Minority Populations

This review uses FTA definitions related to Title VI-protected populations and geographic areas. Each of these categories is defined and described in this section.

Predominately Low-Income Areas

The FTA defines a low-income individual as one whose household income is at or below the poverty guidelines set by the Department of Health and Human Services (DHHS). DHHS poverty thresholds are based on household size and income, and are nearly identical to the guidelines used to define poverty in the 2000 U.S. Census, which form the basis of this review. FTA defines a predominately low-income area as one where the proportion of low-income persons residing in that area exceeds the average proportion of low-income persons in the overall service area, defined in this review as the seven-county Twin Cities Metropolitan Area (TCMA). Based on 2000 Census data, the percentage of low-income individuals in the TCMA is 6.79 percent. Low-income areas are thereby defined as those whose low-income population is greater than 6.79 percent of the overall area population.

Predominately Minority Areas

The FTA defines a minority person as one who self-identifies as American Indian/Alaska Native, Asian, Black or African American, Hispanic or Latino, and/or Native Hawaiian/Pacific Islander. A predominately minority area is defined as one where the average proportion of minority persons exceeds the average proportion of minority persons in the overall service area, defined in this review as the seven-county Twin Cities Metropolitan Area (TCMA). Based on 2000 Census data, the percentage of minority individuals in the TCMA is 16.97 percent. Minority areas are thereby defined as those whose minority population is greater than 16.97 percent of the overall area population.

Service Change Analysis Method

A geographic information systems (GIS)-based approach is employed to determine the location and net magnitude of service changes resulting from the I-35W/46th Street Station bus service plan. The analysis consists of three steps:

Define the geographic extent of the corridor service area

Identify predominately low-income and minority census divisions within the service area

Spatially allocate current and future transit service levels to census divisions and determine service change

Defining the Service Area

The service area in this analysis includes all areas served by the bus routes in the I-35W/46th Street Station bus service plan. Metro Transit has established guidelines for measuring the geographic area served by each transit mode. These distances are approximately equal to the distances transit users are willing to walk to access the respective mode. Regular route bus service areas are defined as all areas within ¼ mile of any portion of the route where boarding occurs. Using GIS, ¼-mile buffers are drawn around boarding segments of any route modified or eliminated in the service plan. Census divisions intersecting these buffers are selected for analysis. The selection is examined manually to exclude Census divisions that are included in a buffered area but separated from transit service lines by a physical buffer (for example, an area on the opposite side of the Mississippi River without a bridge crossing).

Because the service on Route 535 at I-35W/46th Street Station will have the all-day service and station amenities of a transitway, a ½-mile buffer is used to define the service area for Route 535 trips stopping at I-35W/46th Street Station. Other express routes stopping at I-35W/46th Street Station without the service characteristics of Route 535 are analyzed using the standard ¼-mile buffer distance.

Identifying Low-Income and Minority Populations

The service area buffers are overlaid on Census divisions to determine the geographic extent of the changes within the I-35W/46th Street Station bus service plan. This analysis employs the smallest Census division at which appropriate demographic data is available to determine low-income and minority areas. For the low-income analysis, block group data is available. For the minority analysis, block data is available. Because the two geographic units are not the same, two separate spatial analyses are conducted to determine service areas and service change impacts. Predominately low-income areas in the draft plan service area are identified using block group-level demographic data from the 2000 Census, as shown in Figure 2. Predominately minority areas in the draft plan service area are identified using block-level demographic data from the 2000 Census, as shown in Figure 3.

Allocating Service Levels and Determining Service Change

Once the bus service buffers are overlaid on the appropriate Census divisions, trip count information within the service buffers is spatially associated with each Census division. A step-by-step diagrammatic explanation of the spatial analysis methodology is shown in Figure 4.

Current service levels are equal to bus route trip counts as of January 2010 for the routes included in the bus service plan. Future service levels are determined based on the I-35W/46th Street Station bus service plan.
The change in service level is calculated for each census division by subtracting current trips from future trips, as shown:

Future trips available within census division (*modified/planned bus routes*) - **Current trips available within census division (*existing bus routes*)** = **Change in service by census division**

After the absolute change in the number of trips is calculated, a percentage change figure is found by dividing the change in service by the existing service level. To minimize artificial skewing from newly served areas, all percentage change figures greater than 100 percent or those that are incalculable due to no existing service were adjusted to 100 percent.

Draft Service Plan – Evaluation of Benefits/Impacts

Low-Income Populations

There are a total of 316 block groups within the draft plan service area, of which 140 are predominately low-income and 176 are predominately non-low-income. The change in service by block group as a result of the draft service plan is represented in Figure 5. Table 7 contains the current and future trip count averages for low-income, non-low-income, and all block groups. Dividing the change in trips by the existing trip count yields the percent change in service for each block group, displayed in the last row of the table. Where necessary, percent change figures are adjusted as noted in the previous section.

Table 7: Current and Future (Draft Plan) Service Levels – Low-Income

	All Block Groups	**Low-Income Block Groups**	**Non-Low-Income Block Groups**
Number of Block Groups	316	140	176
Average Current Trips	133.62	183.31	94.09
Average Future Trips	140.16	188.30	101.86
Average Change in Trips	+ 6.71	+ 5.16	+ 7.94
Adjusted* Average Percent Change in Service	+ 7.28%	+ 3.56%	+ 10.24%

**Block group-level percent change results greater than 100% are adjusted to 100%.*

Both low-income and non-low-income block groups experience an overall average increase in level of transit service availability as a result of the bus service plan. The average Census block group sees an increase in transit service availability of 7.28 percent over current service levels. Low-income block groups in the service area experience an overall average 3.56 percent increase in service; non-low-income areas experience a 10.24 percent increase in service from the bus service plan.

Minority Populations

There are a total of 3,631 blocks within the draft plan service area, of which 984 are predominately minority and 2,647 are predominately non-minority. The change in service by block as a result of the service plan is represented in Figure 6. Table 8 contains the current and future trip count averages for minority blocks, non-minority blocks, and all

blocks. Dividing the change in trips by the existing trip count yields the percent change in service for each block, displayed in the last row of the table.

Table 8: Current and Future (Draft Plan) Service Levels – Minority

	All Blocks	Minority Blocks	Non-Minority Blocks
Number of Blocks	3,631	984	2,647
Average Current Trips	98.65	136.70	84.51
Average Future Trips	103.55	146.16	87.70
Average Change in Trips	+ 5.08	+ 9.64	+ 3.39
*Adjusted Average Percent Change in Service	+ 7.17%	+ 7.62%	+ 7.01%

**Block-level percent change results greater than 100% were adjusted to 100%.*

Both minority and non-minority blocks experience an overall average increase in transit service levels as a result of the bus service plan. The average Census block in the service area sees a 7.17 percent increase in transit service availability over current service levels. Minority blocks experience an overall average 7.62 percent increase in service; non-minority blocks experience a 7.01 percent increase in transit service availability.

Final Service Plan – Evaluation of Benefits/Impacts

Refined Service Area

For the final service plan, Metro Transit staff refined the extent of the analysis to exclude the areas served by Route 11 north of downtown Minneapolis. This area is excluded because it is unaffected by the I-35W/46th Street Station bus service plan and therefore does not raise Title VI concerns. However, removal of these areas does affect the minority and low-income composition of the analysis service area, as shown in Figure 7 and Figure 8.

Low-Income Populations

There are a total of 290 block groups within the final plan service area, of which 117 are predominately low-income and 173 are predominately non-low-income. Table 9 contains the current and future trip count averages for low-income block groups, non-low-income block groups, and all block groups. Dividing the change in trips by the existing trip count yields the percent change in service for each block group, displayed in the last row of the table.

Table 9: Current and Future (Final Plan) Service Levels – Low-Income

	All Block Groups	Low-Income Block Groups	Non-Low-Income Block Groups
Number of Block Groups	290	117	173
Average Current Trips	138.2	199.7	96.5
Average Future Trips	144.7	206.7	102.8
Average Change in Trips	+ 6.6	+ 7.0	+ 6.3
*Adjusted Average Percent Change in Service	+ 5.01%	+ 5.04%	+ 4.99%

**Block group-level percent change results greater than 100% were adjusted to 100%.*

Both low-income and non-low-income block groups experience an overall average increase in transit service levels as a result of the bus service plan. The average block group in the service area sees a 5.01 percent increase in transit service availability over current service levels. Low-income block groups experience an overall average 5.04 percent increase in transit service; non-low-income block groups experience a 4.99 percent increase in service.

The change in service by block group as a result of the service plan is represented in Figure 9. Block groups that experience an increase in service are represented with two categories: those that gain more service than the service area average of 5.01 percent, and those that gain less than the average.

Minority Populations

There are a total of 3,286 blocks within the final plan service area, of which 852 are predominately minority and 2,434 are predominately non-minority. Table 10 contains the current and future trip count averages for minority blocks, non-minority blocks, and all blocks. Dividing the change in trips by the existing trip count yields the percent change in service for each block, displayed in the last row of the table.

Table 10: Current and Future (Final Plan) Service Levels – Minority

	All Blocks	**Minority Blocks**	**Non-Minority Blocks**
Number of Blocks	3,286	852	2,434
Average Current Trips	100.1	146.6	83.7
Average Future Trips	105.1	155.7	87.4
Average Change in Trips	+ 5.0	+ 9.0	+ 3.7
*Adjusted Average Percent Change in Service	+ 4.43%	+ 6.98%	+ 3.54%

**Block-level percent change results greater than 100% were adjusted to 100%.*

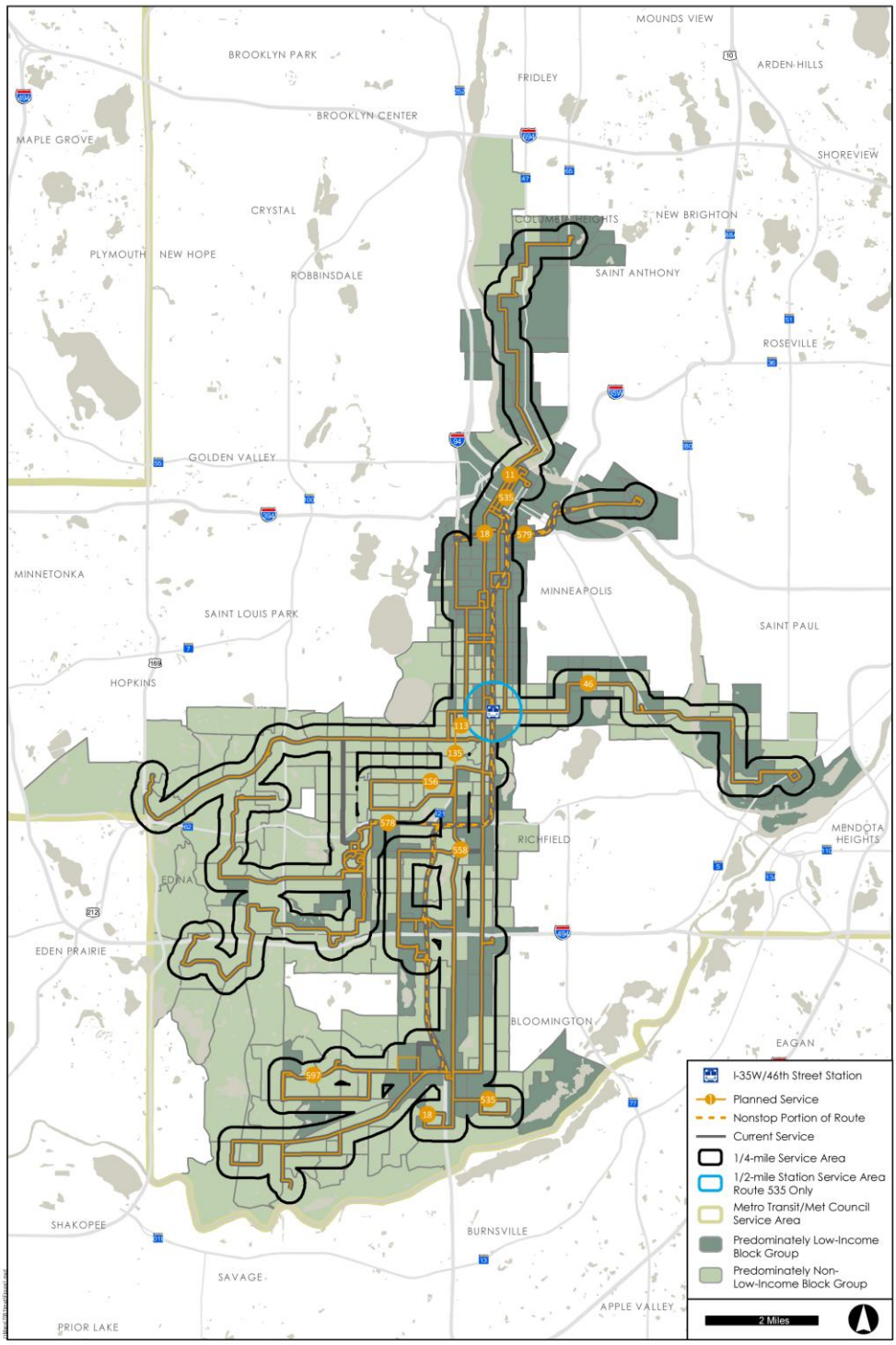
Both minority and non-minority blocks experience an overall average increase in transit service levels as a result of the bus service plan. The average Census block in the service area sees a 4.43 percent increase in transit service availability over current service levels. Minority blocks experience an overall average 6.98 percent increase in transit service; non-minority blocks experience a 3.54 percent increase in service.

The change in service by block as a result of the service plan is represented in Figure 10. Blocks that experience an increase in service are represented with two categories: those that gain more service than the service area average of 4.43 percent, and those that gain less than the average.

Conclusion

Overall, the final I-35W/46th Street Station bus service plan does not result in negative impacts to predominately low-income or predominately minority areas in the service corridor. This review finds that the service changes associated with the bus service plan do not adversely or disproportionately affect minority populations or low-income populations. Because this review does not identify any disparate impacts of this service change on minority and low-income populations, no discussion of mitigative measures is required.

Figure 2: Predominately Low-Income Areas – Draft Service Plan



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Predominately Low-Income Areas – Draft Service Plan

Title VI Review: I-35W/46th Street Station Service Plan
Metro Transit

Figure 1

Figure 3: Predominately Minority Areas – Draft Service Plan

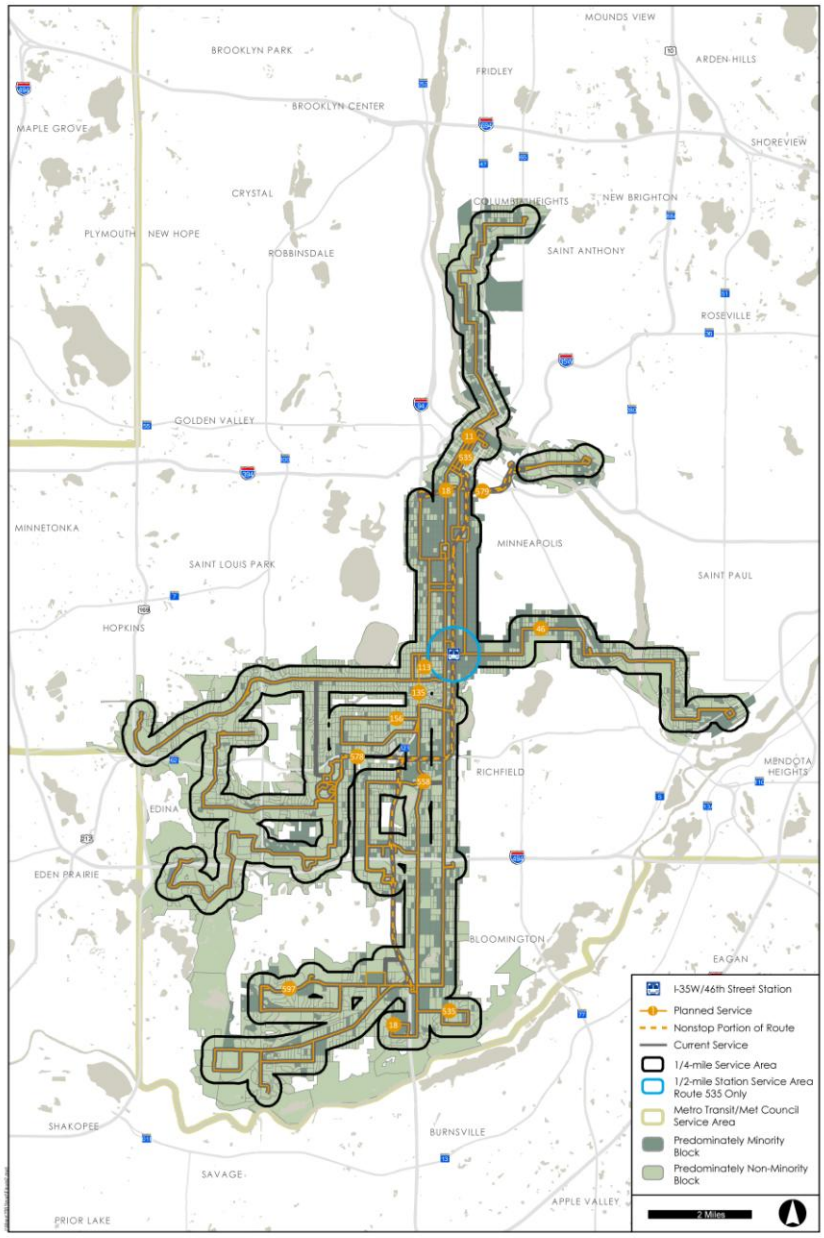
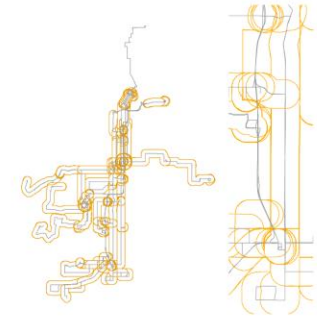
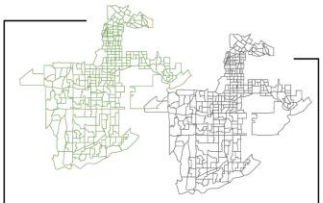


Figure 4: Spatial Analysis Methodology



Step 1: Buffer Patterns
-exclude nonstop portion
-1/4-Mile Service Area
-1/2-Mile Station Service Area

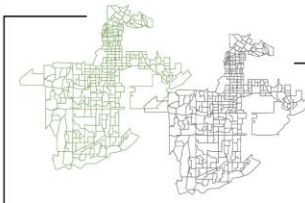
Step 2: Spatial Join Pattern Buffers to Census Divisions
-Intersect buffer with census division
-one census division to many pattern buffers
-pattern buffer attributes are appended to each census division/including current and planned trips



Step 3: Extract census division by service

BG00	ROUTE	TRIPS	PATTERN	VERSION
270030514001	11	47	C	CURRENT
270030514001	11	47	A	CURRENT

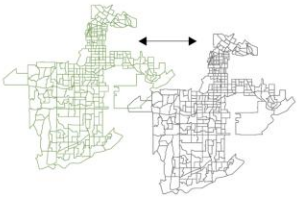
BG00	ROUTE	TRIPS	PATTERN	VERSION
270030514001	11	47	C	PLAN
270030514001	11	47	A	PLAN



Step 4: Dissolve by census division
-one record for each census division
-current service - sum by current trips
-plan service - sum by plan trips

OBJECTID *	Shape	BG00 *	SUM_TRIPS
2	Polygon	270030514001	94

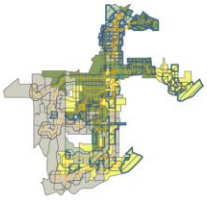
OBJECTID *	Shape	BG00 *	SUM_TRIPS
2	Polygon	270030514001	94



Step 5: Join service by census div to census div
-create fields for current and plan trips
-calculate values for current and plan service
-single file with plan and current trip totals

Step 6: Calculate trip change for each census division

BG00	CURRENT	PLAN	TRIPS_CHG	TRIPS_CHGP
270030514001	94	94	0	0



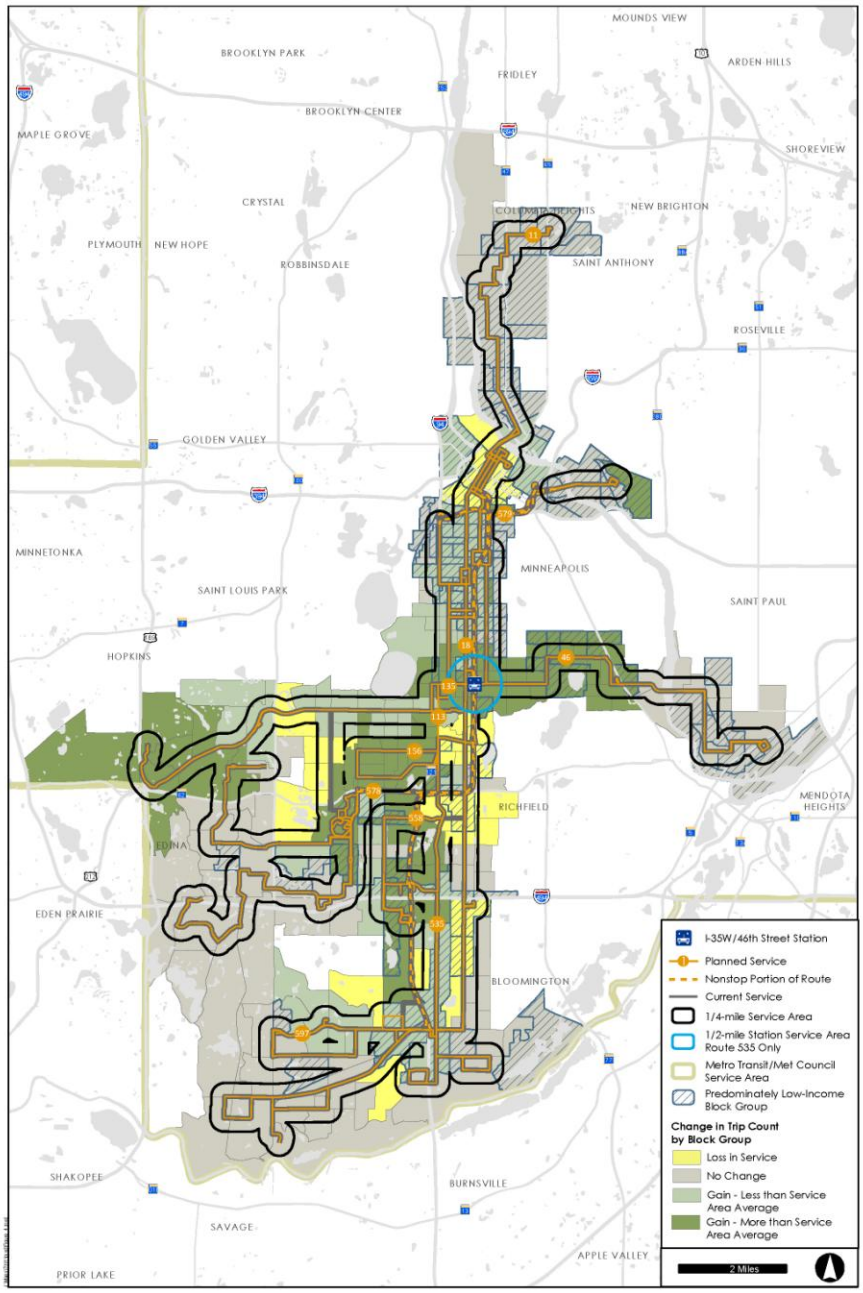
Step 7: Map results

SRF Consulting Group, Inc.

Spatial Analysis Methodology

Title VI Review: I-35W/46th Street Station Service Plan
Metro Transit

Figure 5: Effects of Service Changes on Low-Income Populations – Draft Service Plan



SRF

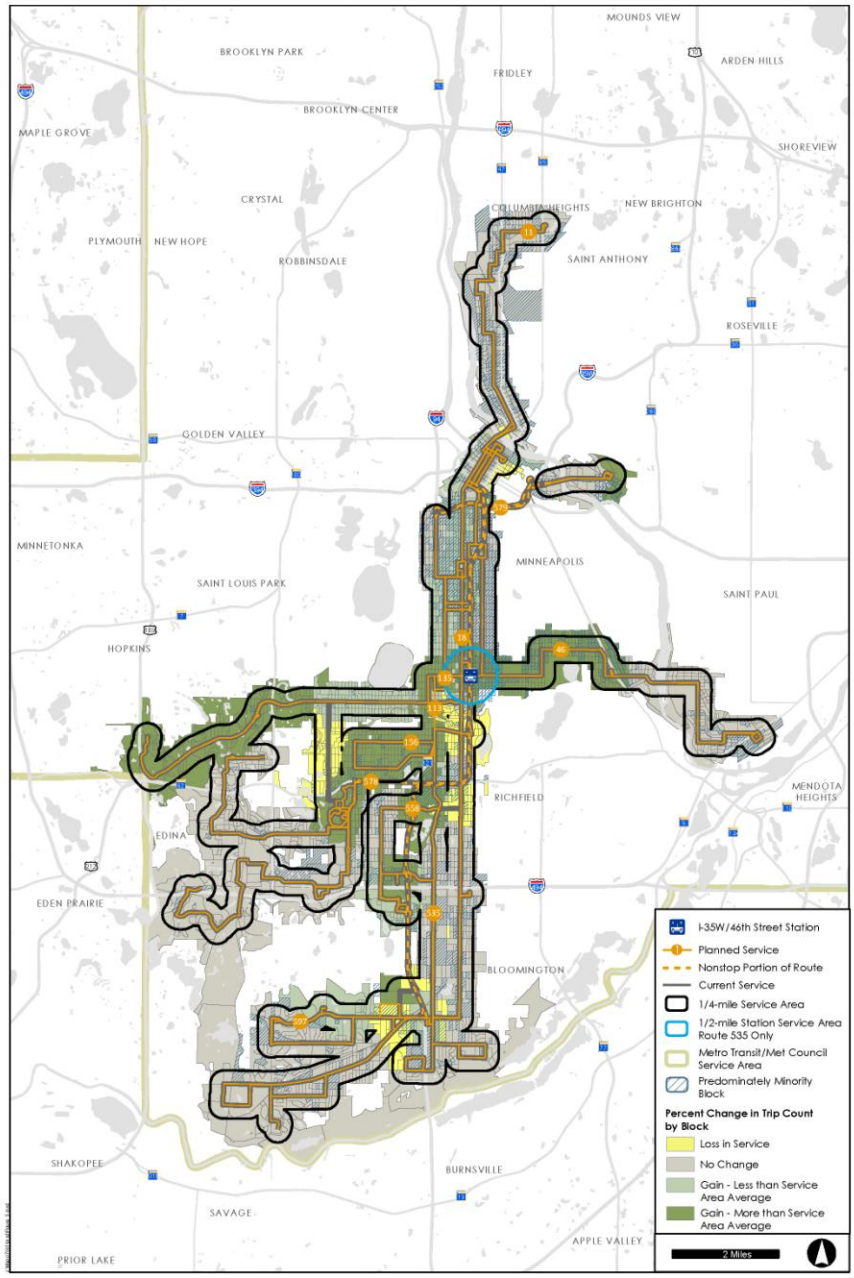
Effects of Service Changes on Low-Income Populations – Draft Service Plan

Title VI Review: I-35W/46th Street Station Service Plan

Metro Transit

Figure 4

Figure 6: Effects of Service Changes on Minority Populations – Draft Service Plan



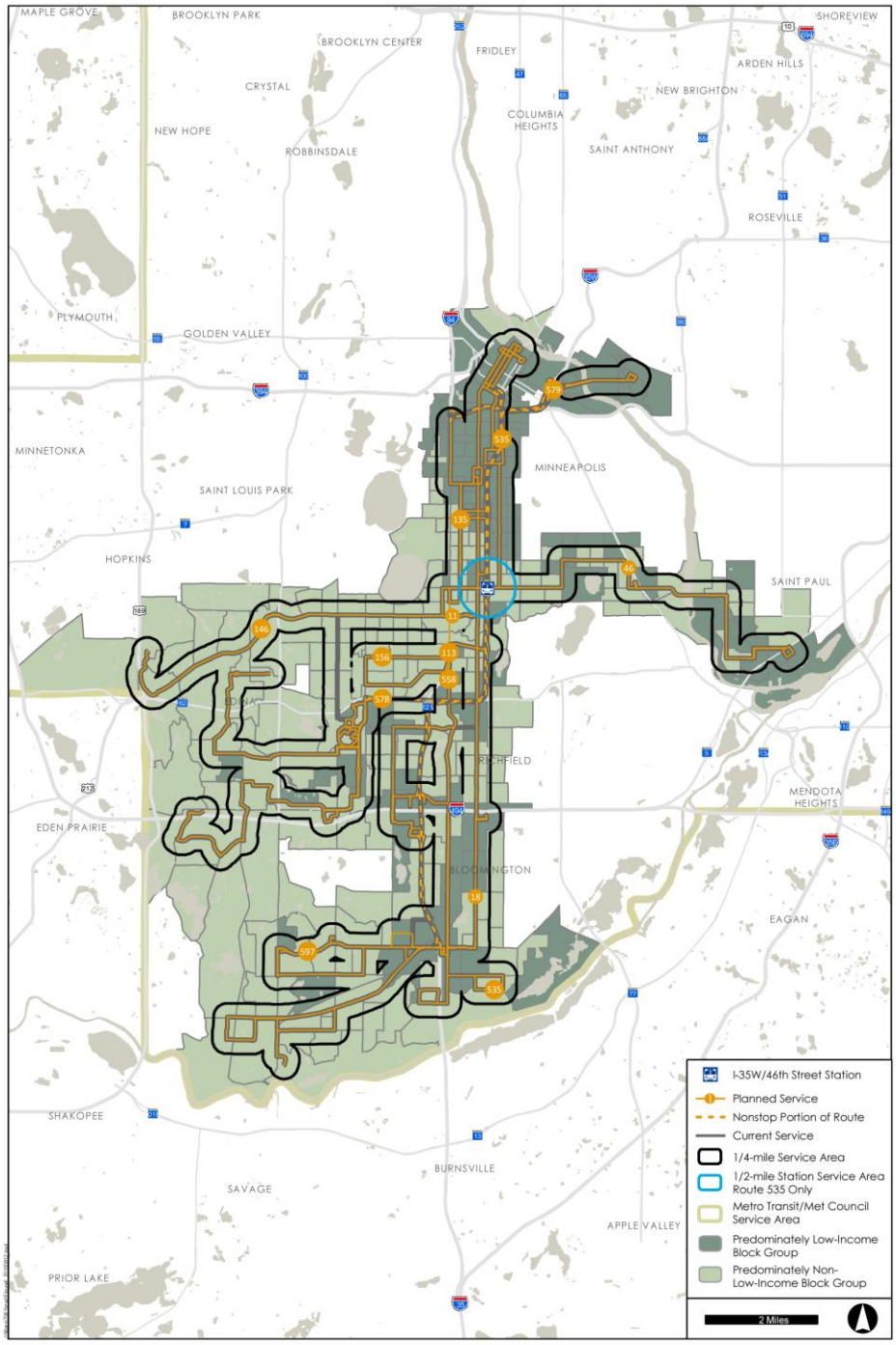
SRF

Effects of Service Changes on Minority Populations – Draft Service Plan

Title VI Review: I-35W/46th Street Station Service Plan
Metro Transit

Figure 5

Figure 7: Predominately Low-Income Areas – Final Service Plan

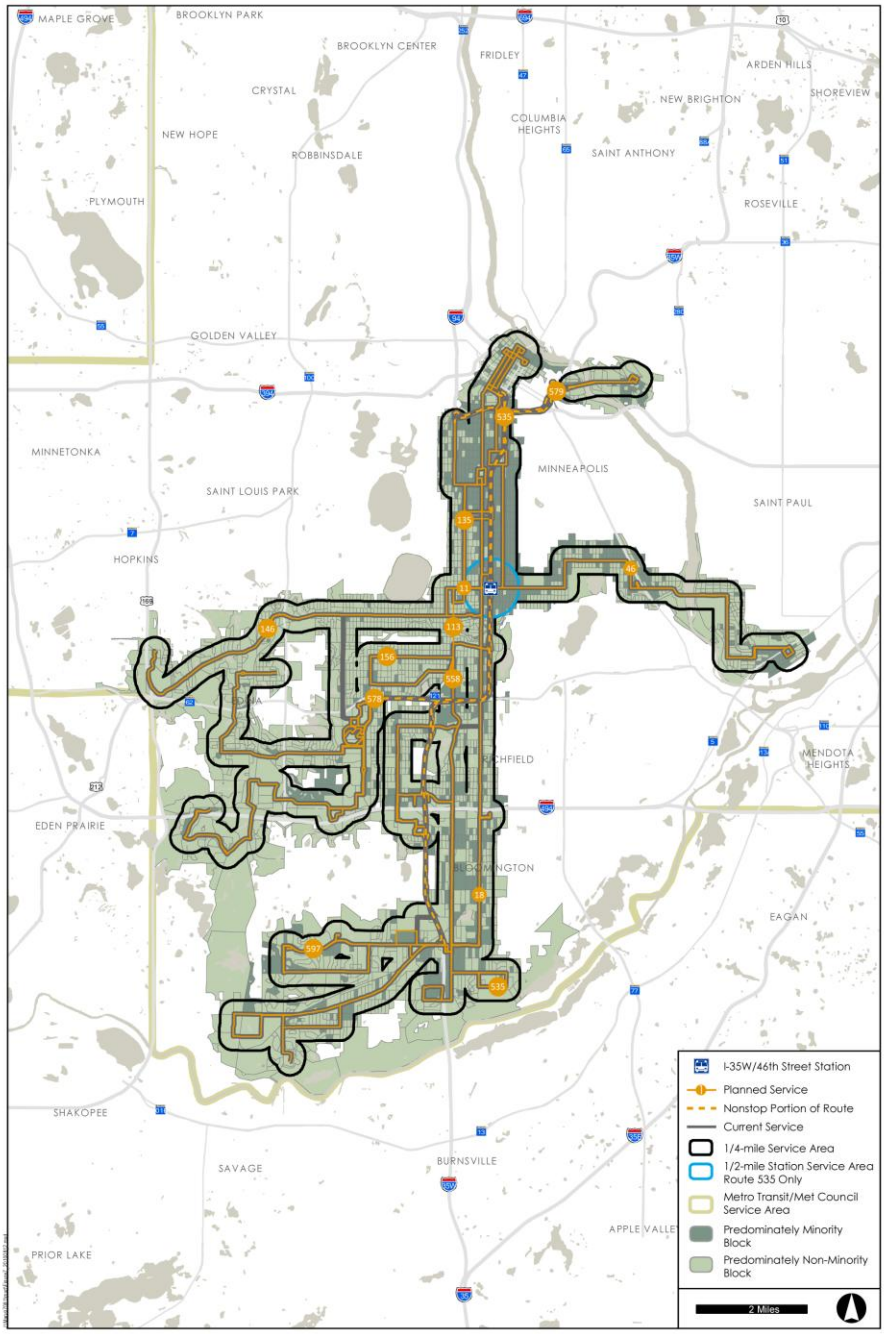


Predominately Low-Income Areas – Final Service Plan

Title VI Review: I-35W/46th Street Station Service Plan
Metro Transit

Figure 6

Figure 8: Predominately Minority Areas – Final Service Plan



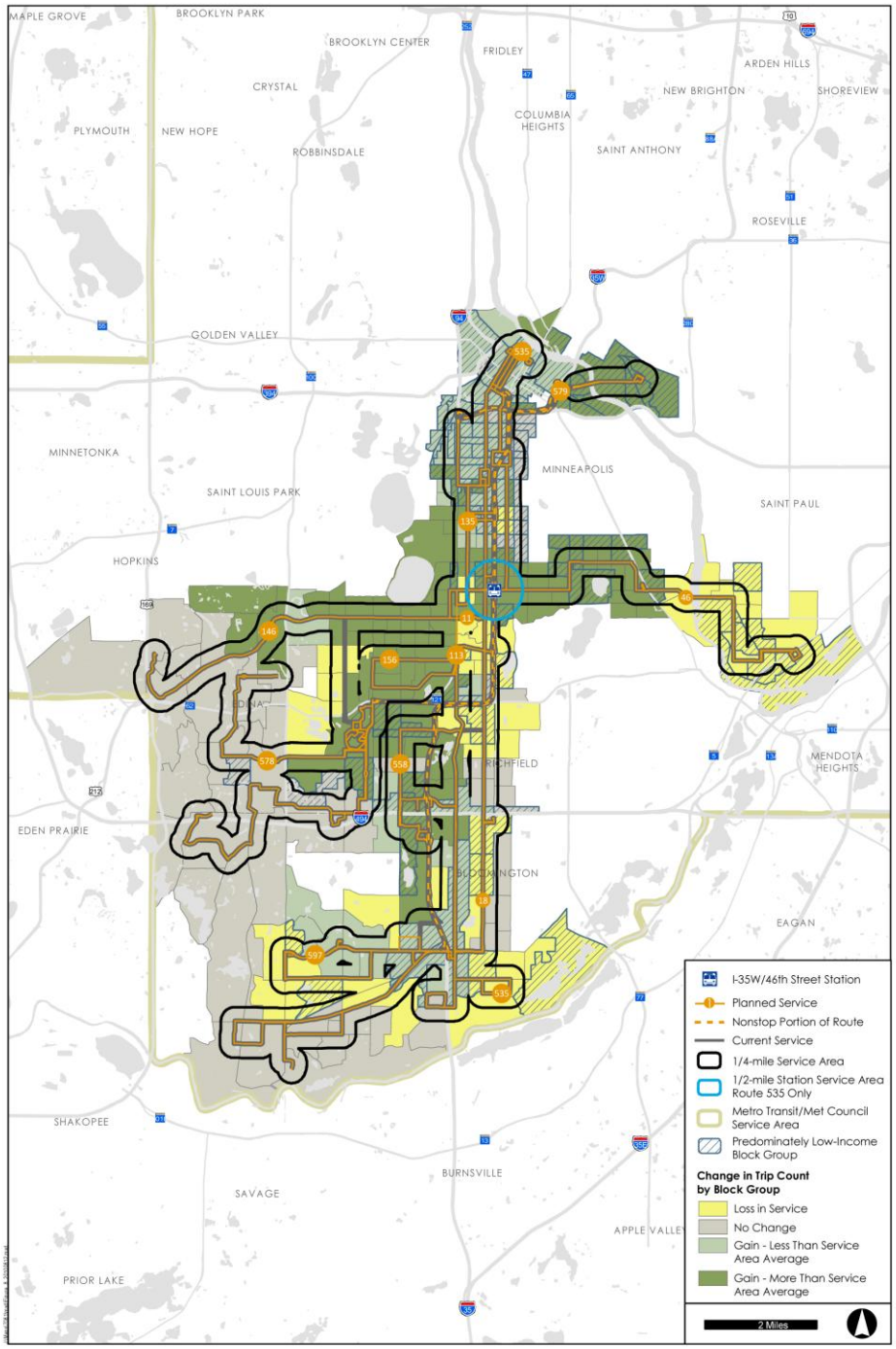
SRF Consulting Group, Inc.

Predominately Minority Areas – Final Service Plan

Title VI Review: I-35W/46th Street Station Service Plan
Metro Transit

Figure 7

Figure 9: Effects of Service Changes on Low-Income Populations – Final Service Plan

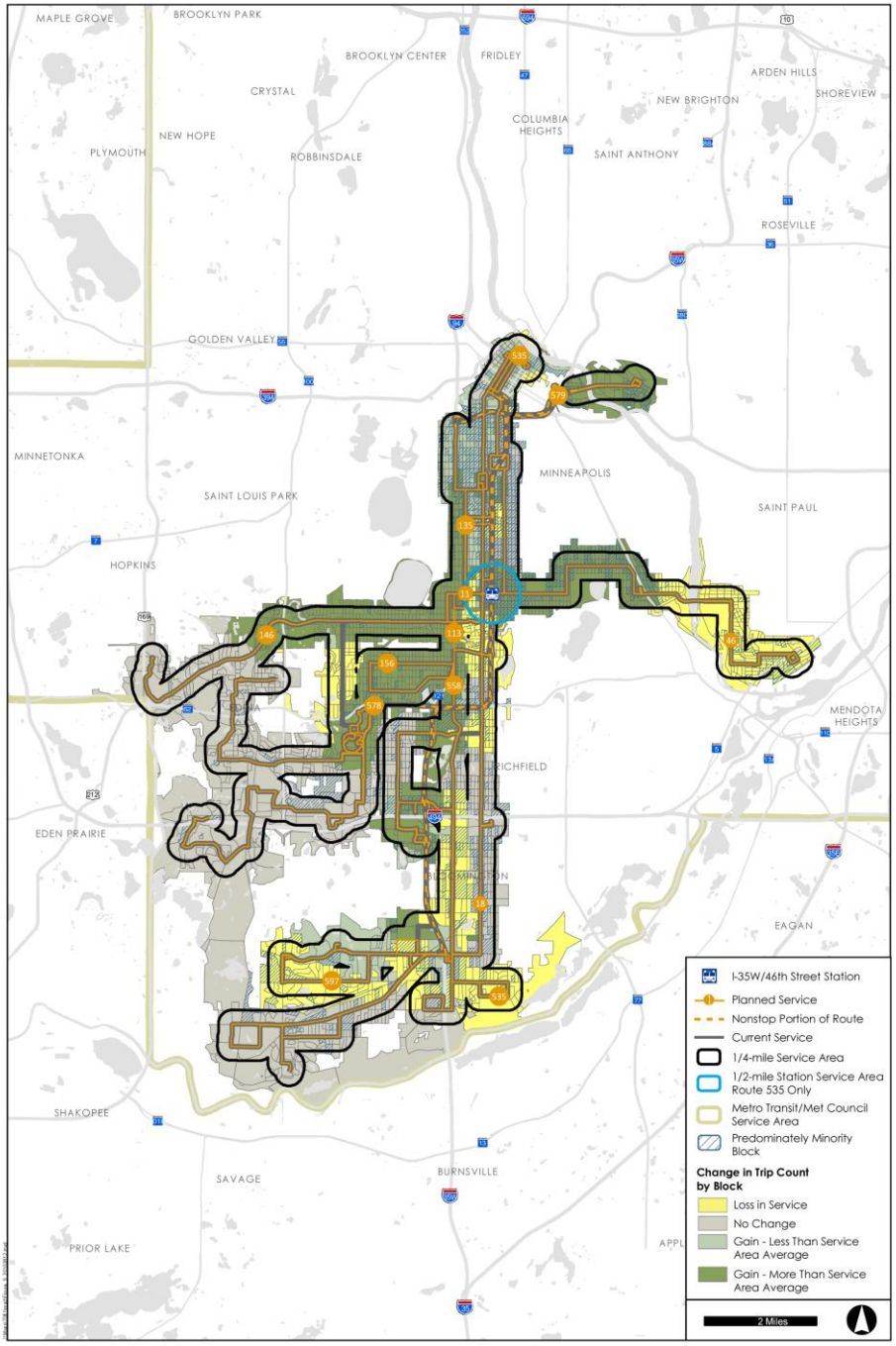


Effects of Service Changes on Low-Income Populations – Final Service Plan

Title VI Review: I-35W/46th Street Station Service Plan
Metro Transit

Figure 8

Figure 10: Effects of Service Changes on Minority Populations – Final Service Plan



SRF Consulting Group, Inc.

Effects of Service Changes on Minority Populations – Final Service Plan

Title VI Review: I-35W/46th Street Station Service Plan
Metro Transit

Figure 9

Exhibits – TIP

Exhibit - The Draft 2010-2013 TIP

Transportation Advisory Board
of the Metropolitan Council of the Twin Cities

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Chuck Halk - D
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Jill Smith - G
Ken Johnson - H

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Minnesota DOT
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M.A.C.
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M.P.C.A.

Modal Representatives
Richard Mussell
Transit
Glenn Olson
Transit
Ron Have
Freight
David Gepner
Non-motorized

August 17, 2009

Metropolitan Area Transportation Stakeholders and Citizens:

RE: Draft 2010-2013 Transportation Improvement Program for the Twin Cities Metropolitan Area.

In accordance with federal requirements and its desire to gain effective public participation in the preparation of the region's Transportation Improvement Program, the Transportation Advisory Board held a public hearing on the draft 2010-2013 Transportation Improvement Program for the Twin Cities Metropolitan Area at 3:00 PM on Wednesday July 15, 2009. This document and the attached material comprise the public comment report.

This public comment report includes the following:

Appendix A
The public hearing notice that appeared in the State Register and Metropolitan Council public information publication.

Appendix B
The public hearing sign-in sheet and information presented by staff at the public hearing held on July 15, 2009.

Appendix C
The public hearing report summarizing the verbal and written comments provided at the public hearing held on Wednesday, July 15, 2009 and staff responses.

Appendix D
All comments received during the public comment period other than those from the public hearing and staff responses.

Sincerely,

Kevin Roggenbuck
TAB Coordinator

390 No. Robert Street St. Paul, Minnesota 55101 (651) 602-1728 Fax (651) 602-1739

Appendix A

Draft 2010-2013 Transportation Improvement Program for the Twin Cities Metropolitan Area.

Public Hearing Notices.

Metropolitan Council

> News+Events

Public Hearings & Meetings

To leave comments on current public hearing issues, or other regional issues, please call the Council's Public Comment Line at 651-602-1500, or send an e-mail to data.center@metc.state.mn.us

- Public Hearing: On the Proposed 2010-2013 Transportation Improvement Program (TIP) for the Twin Cities Metropolitan Area - July 15, 2009

METROPOLITAN COUNCIL
NOTICE OF PUBLIC HEARING
ON THE PROPOSED 2010-2030
TRANSPORATION IMPROVEMENT PROGRAM (TIP)
FOR THE TWIN CITIES METROPOLITAN AREA

The Transportation Advisory Board (TAB) of the Metropolitan Council will hold a public hearing on July 15, 2009 to receive public reaction to the proposed 2010-2013 Transportation Improvement Program (TIP) for the Twin Cities Metropolitan Area. The program will include highway, transit, bikeway and pedestrian enhancements and air quality projects that are proposed for federal funding in the seven-county metropolitan area in the next four years. The TIP includes the recommended projects selected through the 2007 Regional Solicitation process for federal transportation funds. The program is prepared annually in accordance with federal requirements and must contain all projects that are to be implemented with federal transportation funding assistance. This TIP also contains Metropolitan Council's program of projects (POP) which includes transit projects for Metro Transit, Metro Mobility, contracted services and suburban transit. This hearing fulfills FTA's public participation requirements for the POP.

- **Public Hearing for comments on TIP**
  Wednesday, July 15, 2009 – 3:00 p.m.
  Metropolitan Council Chambers
  390 North Robert Street
  St. Paul, Minnesota

The TIP is prepared jointly by the Metropolitan Council and the Minnesota Department of Transportation. Projects contained in the TIP reflect the region's priorities and help implement the region's transportation plan. All specific projects are assumed to have independent utility and are fully funded unless noted otherwise in the project description. The projects in aggregate have been analyzed to determine impact on regional air quality. Progress made on implementing the region's transportation plan will be reported in the TIP and at the public hearing. The program will be adopted by the Transportation Advisory Board and approved by the Metropolitan Council.

Upon request, the Council will provide reasonable accommodations to persons with disabilities. In addition to providing oral or written comments at the public hearing, comments may be made several ways:

- Written comments to: Kevin Roggenbuck, Metropolitan Council, 390 North Robert St., St. Paul, MN 55101
- Fax comments to Kevin Roggenbuck, (651) 602-1739
- Record comments on the Council's Public Information Line: (651) 602-1500
- Send comments electronically to: data.center@metc.state.mn.us

Comments must be received by **4:00 p.m., Monday, August 3, 2009.** Free copies of the draft 2010-2013 Transportation Improvement Program will be available on June 18, 2009, at the Council's Regional Data Center. Call (651) 602-1140 or TTY (651) 291-0904 to request a copy. The main body of the TIP will be available for review on June 18, 2009 at the Metropolitan Council's website at www.metrocouncil.org. Other background materials describing the Council's transportation planning and programming efforts also are available.

Questions about the hearings or transportation assumptions and technical materials may be directed to Kevin Roggenbuck, (651) 602-1728, James Andrew (651) 602-1721 or Carl Ohrn (651) 602-1719, Metropolitan Council, 390 North Robert St., St. Paul, MN 55101.

State of Minnesota

State Register

Proposed, Adopted, & Expedited Rules; Executive Orders; Appointments; Commissioners' Orders; Revenue Notices; Official Notices; State Grants & Loans; State Contracts; Non-State Public Bids, Contracts &Grants

Published every Monday (Tuesday when Monday is a holiday)

Monday 22 June 2009

Volume 33, Number 51

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State Register

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# 51	Monday 22 June	Noon Tuesday 16 June	Noon Wednesday 10 June
# 52	Monday 29 June	Noon Tuesday 23 June	Noon Wednesday 17 June
Vol. 34, #1	Monday 6 July (FY-10)	Noon Tuesday 30 June	Noon Wednesday 24 June
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Teachers Retirement Association

Notice of Board of Trustees Meeting July 15, 2009

The Board of Trustees, Minnesota Teachers Retirement Association will hold an orientation for new board members on Wednesday, July 15, 2009 at 8:15 a.m. in Suite 400, located at 60 Empire Drive, St. Paul, MN.

Exhibit – 2011-2014 TIP

Transportation Advisory Board

of the Metropolitan Council of the Twin Cities

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Jill Smith - G
Ken Johnson - H

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Metropolitan Council

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Minnesota DOT

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David Thornton
M.P.C.A.

Modal Representatives
Richard Mussell
Transit

Matthew Craig
Transit

Ron Have
Freight

David Gepner
Non-motorized

July 8, 2010

Metropolitan Area Transportation Stakeholders and Citizens:

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Appendix C
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Sincerely,

Kevin Roggenbuck
TAB Coordinator

390 No. Robert Street St. Paul, Minnesota 55101 (651) 602-1728 Fax (651) 602-1739

Appendix A

Public Hearing Notices.

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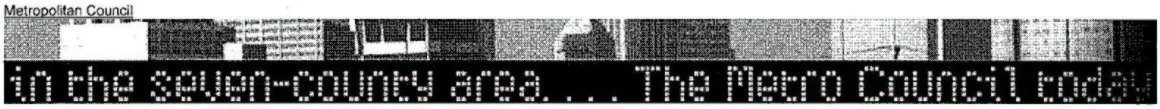

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Public Meetings and Hearing: Transit Service Restructuring Plan for I-35W and 46th St. Corridors - June 2, 15 and 29 2010
Public Hearing: Proposed Service Availability Charge (SAC) transfer amount for the 2011 MCES budget, which impacts both SAC and Municipal Wastewater Charges - June 16, 2010
Public Hearing: Proposed 2011-2014 Transportation Improvement Program (TIP) for the Twin Cities Metropolitan Area - June 16, 2010
Public Hearing: Proposed Amendment to the 2030 Water Resources Management Policy Plan, Infiltration/Inflow (I/I) Program - July 13, 2010
Public Hearing: Adoption of Public Housing Agency Plan and Local Preference for the Section 8 Program - August 16, 2010
Notice: Metropolitan Council 2010-2013 Disadvantaged Business Enterprise Program (DBE) Goal

METROPOLTAN COUNCIL PUBLIC HEARING
Proposed Service Availability Charge (SAC) transfer amount
for the 2011 MCES budget, which impacts both
SAC and Municipal Wastewater Charges
Wednesday, June 16, 2010, 9:00 a.m.

Metropolitan Council Environmental Services (MCES) will conduct a public hearing to provide information and receive public comment on the proposed SAC transfer amount, pursuant to MN Statute 473.517 (3), for the 2011 MCES budget.

Background

A large decline in new development throughout the entire region has consequently caused a dramatic decline in SAC revenues and reserves.

SAC rates would need to be raised a high percentage to fund the normal SAC transfer amount. The revised Statute (enacted into law April 1, 2010) allows a reduction in SAC Transfer if the Council finds it necessary or desirable after study and a public hearing.

The proposed "shift" from SAC responsibility to Municipal Wastewater Charges in 2011 will be presented at the public hearing for review and comment. Without a reduction in the SAC transfer amount, SAC rates would have to be increased at a rate that might drive development out of the "sewered" area and/or inhibit the region's economic recovery.

Hearing Details

9:00 a.m., Wednesday, June 16, 2010
Metropolitan Council, Council Chambers
390 N. Robert St. (SE corner of Robert and 6th Street), St. Paul, MN 55101

All interested people are encouraged to attend the hearing and/or submit written comments. Upon request, the Council will provide a reasonable accommodation to people with disabilities.

Comments may also be submitted:
By mail: Dan Schueller, 390 N Robert St., St. Paul, MN 55101
By fax: Dan Schueller at 651-602-1477
Electronically: data.center@metc.state.mn.us
On the Council's Public Comment Line: 651-602-1500 (TTY: 651-291-0904)
To be included in the record, comments must be received by 8:00 a.m., Monday, June 28, 2010.

METROPOLTAN COUNCIL PUBLIC MEETINGS AND HEARING
TRANSIT SERVICE RESTRUCTURING PLAN FOR
I-35W and 46TH ST. CORRIDORS

The Metropolitan Council will hold a series of public meetings to receive comments on the concept transit service restructuring plan for the I-35W and 46th Street corridors in south Minneapolis. The plan will involve modifying existing bus routes along the I-35W corridor to better serve the station under construction at 46th Street, one of eight stations eventually planned for bus-rapid transit (BRT) service on I-35W. The 46th Street station will open in late 2010. The restructuring will affect customers riding from Bloomington, Edina, Richfield, and south Minneapolis on routes 11, 18, 46, 113, 135, 146, 152, 156, 535, 558, 576, 578, 579, 597 and 684.

For more information on the service plan, visit www.metrotransit.org or contact the team at 35W-BRTstation@metc.state.mn.us.

All interested persons are encouraged to attend the meetings and offer comments. Those attending may register in advance to speak by calling the Data Center at 651-602-1140.

The public meetings and hearing will be held at the following times and locations:

June 2: 5 p.m. to 7 p.m.
Woodlake Nature Center
6710 Lake Shore Drive, Richfield
Served by Transit Routes 4, 515

June 15: 5 p.m. to 7 p.m.
Fuller Park
4800 Grand Ave. S., Minneapolis
Served by Transit Routes 18G; Routes 4, 46 within short walk

June 29: 11:30 a.m. to 1 p.m., PUBLIC HEARING
Minneapolis Central Library, Doty Room
300 Nicollet Mall, Minneapolis
Served by Routes 3, 4, 6, 10, 11, 16, 17, 18, 25, 675

The Council will also receive comments on the service plan through July 9 as follows (comments must be received by 5 p.m.):
Written comments: Metropolitan Council Data Center, 390 N. Robert St., St. Paul, 55101

Fax comments to: Data Center at 651-602-1464
Send TTY comments to: Data Center at 651-291-0904
Email: data.center@metc.state.mn.us
Record comments on Council's Public Comment Line at 651-602-1500

Metro Transit staff will finalize the Concept Service Plan following the public comment period. The Council will evaluate the final recommended plan at a meeting later this summer.

METROPOLITAN COUNCIL PUBLIC HEARING
on THE PROPOSTED 2011-2014
TRANSPORTATION IMPROVEMENT PROGRAM (TIP)
for THE TWIN CITIES METROPOLITAN AREA

The Transportation Advisory Board (TAB) of the Metropolitan Council will hold a public hearing on June 16, 2010 to receive public reaction to the proposed 2011-2014 Transportation Improvement Program (TIP) for the Twin Cities Metropolitan Area. The program will include highway, transit, bikeway and pedestrian enhancements and air quality projects that are proposed for federal funding in the seven-county metropolitan area in the next four years. The TIP includes the recommended projects selected through the 2007 and 2009 Regional Solicitation process for federal transportation funds. The program is prepared annually in accordance with federal requirements and must contain all projects that are to be implemented with federal transportation funding assistance. This TIP also contains Metropolitan Council's program of projects (POP) which includes transit projects for Metro Transit, Metro Mobility, contracted services and suburban transit. This hearing fulfills FTA's public participation requirements for the POP.
Public Hearing for comments on TIP
Wednesday, June 16, 2010 – 3:00 p.m.
Metropolitan Council Chambers
390 North Robert Street
St. Paul, Minnesota

The TIP is prepared jointly by the Metropolitan Council and the Minnesota Department of Transportation. Projects contained in the TIP reflect the region's priorities and help implement the region's transportation plan. All specific projects are assumed to have independent utility and are fully funded unless noted otherwise in the project description. The projects in aggregate have been analyzed to determine impact on regional air quality. Progress made on implementing the region's transportation plan will be reported in the TIP and at the public hearing. The program will be adopted by the Transportation Advisory Board and approved by the Metropolitan Council.
Upon request, the Council will provide reasonable accommodations to persons with disabilities. In addition to providing oral or written comments at the public hearing, comments may be made several ways:
Written comments to: Kevin Roggenbuck, Metropolitan Council 390 North Robert St., St. Paul, MN 55101
Fax comments to Kevin Roggenbuck, (651) 602-1739
Record comments on the Council's Public Information Line: (651) 602-1500
Send comments electronically to: data.center@metc.state.mn.us

Comments must be received by 4:00 p.m., Tuesday, July 6, 2010. Download the draft 2011-2014 TIP. Free copies of the draft 2011-2014 Transportation Improvement Program will be available on May 21, 2010, at the Council's Regional Data Center. Call (651) 602-1140 or TTY (651) 291-0904 to request a copy. The main body of the TIP will be available for review on May 21, 2010 at the Metropolitan Council's website at www.metrocouncil.org. Other background materials describing the Council's transportation planning and programming efforts also are available.
Questions about the hearings or transportation assumptions and technical materials may be directed to Kevin Roggenbuck, (651) 602-1728 or James Andrew (651) 602-1721, Metropolitan Council, 390 North Robert St., St. Paul, MN 55101.

METROPOLTAN COUNCIL PUBLIC HEARING
Proposed Amendment to the
2030 Water Resources Management Policy Plan,
Infiltration/Inflow (I/I) Program
Tuesday, July 13, 2010, 11:00 a.m.

The Metropolitan Council will hold a public hearing on July 13, 2010, to receive comments on a proposed amendment to its 2030 Water Resources Management Policy Plan, Infiltration/Inflow (I/I) Program. Key elements of the proposed amendment are: (1) Adding an ongoing I/I reduction program beginning in 2013, and (2) Revising the demand charge program, using "trigger" criteria instead of a date for implementation.
Download the proposed amendment here. Printed copies of the proposed amendment are available at no charge from the Council's Data Center, 390 Robert St. N., St. Paul; call 651-602-1140 or e-mail data.center@metc.state.mn.us.
The public hearing will be conducted at 11:00 a.m. on Tuesday, July 13, 2010, at the Metropolitan Council Building (Council Chambers), 390 Robert St. N. (SE corner of Robert and 6th Street), St. Paul, MN 55101.
All interested persons are encouraged to attend the public hearing and offer comments. Those attending may register in advance to speak by calling the Data Center at 651-602-1140.
You may also submit comments, which must be received by the Metropolitan Council no later than July 23, 2010:
Send written comments to: Tim O'Donnell at Metropolitan Council Environmental Services, 390 Robert St. N., St. Paul, MN 55101-1805
Fax comments to: Tim O'Donnell at 651-602-1477
Record comments on: Metropolitan Council Public Comment Line at 651-602-1500
E-mail comments to: data.center@metc.state.mn.us
Send TTY comments to 651-291-0904

Upon request, the Council will provide reasonable accommodations to persons with disabilities at the public hearing. Please submit such requests to Tim O'Donnell via mail or fax (see above) or by phone at 651-602-1269 before July 6, 2010.

METROPOLITAN COUNCIL
NOTICE OF PUBLIC HEARING
ON ADOPTION OF PUBLIC HOUSING AGENCY PLAN AND
LOCAL PREFERENCE FOR THE SECTION 8 PROGRAM

The Metropolitan Council's Community Development Committee will conduct a public hearing to receive public comment on the proposed 2011 Public Housing Agency (PHA) Plan and adoption of a preference for the Section 8 Housing Choice Voucher Program.
The PHA Plan is a comprehensive guide to public housing agency policies, programs, operations and strategies for meeting local housing needs and goals. It is submitted with specific attachments and within specific timeframes and according to the format required by the US Department of Housing and Urban Development (HUD).
The proposed local preference to be added to the Section 8 Administrative Plan, Chapter 2, 4.III.C. Selection Method is: Preference will be given to any family that has been terminated from the Housing Choice Voucher (HCV) program due to insufficient program funds.
The Section 8 Administrative plan is an attachment to the PHA Plan.
The public hearing will be held:
4:00 p.m., Monday, August 16, 2010, CDC Meeting
Metropolitan Council
Council Chambers
390 Robert St.
St. Paul, MN 55101

The Housing Agency Plan is available for public review at the HRA administrative offices located at 390 Robert St., in St. Paul, and on the Metropolitan Council's website at www.metrocouncil.org. All interested persons are encouraged to attend the hearing and offer comments. People may register in advance to speak by calling Sue Putz at 651-602-1584 or TTY at 651-291-0904. Upon request, the Council will provide a reasonable accommodation to persons with disabilities. In addition to speaking at the hearing, comments may be made in the following ways:

Send comments to: Sue Putz, Metro HRA, 390 Robert St., St. Paul, MN 55101
Fax comments to: Sue Putz at 651-602-1313
Send comments electronically to: data.center@metc.state.mn.us
Record comments on the Council's Public Comment Line: 651-602-1500
TTY: 651-291-0904
Comments must be received by 4:00 p.m., Monday, August 16, 2010.

METROPOLITAN COUNCIL
2010 – 2013 DISADVANTAGED BUSIENSS
ENTERPRISE PROGRAM (DBE) GOAL

The Metropolitan Council's United States Department of Transportation (USDOT) Disadvantaged Business Enterprise Program (DBE) and goal request for years 2010 through 2013 has been submitted to the Federal Transportation Administration (FTA), pursuant to part 26 of the Code of Federal Regulations, Chapter 49. The Metropolitan Council has approved an overall DBE goal of 15% for DOT-assisted contracts effective from October 2, 2009 through September 30, 2013. This goal and a description of how it was set is available for inspection during normal business hours at the Council offices for 45 days from the date of this notice. Comments, which are for information purposes only, may be sent to the Director, Office of Diversity and Equal Opportunity, Metropolitan Council, 390 Robert Street North, St. Paul, MN 55101; or the U.S. Department of Transportation, 400 7th St., SW, Washington, DC 20590.

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Friday June 25 2010
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- **June 15: 5 p.m. to 7 p.m.**
  Fuller Park
  4800 Grand Ave. S., Minneapolis
  Served by Transit Routes 18G; Routes 4, 46 within short walk

- **June 29: 11:30 a.m. to 1 p.m., PUBLIC HEARING**
  Minneapolis Central Library, Doty Room
  300 Nicollet Mall, Minneapolis
  Served by Routes 3, 4, 6, 10, 11, 16, 17, 18, 25, 675

The Council will also receive comments on the service plan through **July 9** as follows (comments must be received by **5 p.m.**):

- Written comments: Metropolitan Council Data Center, 390 N. Robert St., St. Paul, 55101
- Fax comments to: Data Center at (651) 602-1464
- Send TTY comments to: Data Center at (651) 291-0904
- E-mail: *data.center@metc.state.mn.us*
- Record comments on Council's Public Comment Line at (651) 602-1500

Metro Transit staff will finalize the Concept Service Plan following the public comment period. The Council will evaluate the final recommended plan at a meeting later this summer.

Metropolitan Council

Public Hearing on the Proposed 2011-2014 Transportation Improvement Program (TIP) for the Twin Cities Metropolitan Area

The Transportation Advisory Board (TAB) of the Metropolitan Council will hold a public hearing on June 16, 2010 to receive public reaction to the proposed 2011-2014 Transportation Improvement Program (TIP) for the Twin Cities Metropolitan Area. The program will include highway, transit, bikeway and pedestrian enhancements and air quality projects that are proposed for federal funding in the seven-county metropolitan area in the next four years. The TIP includes the recommended projects selected through the 2007 and 2009 Regional Solicitation process for federal transportation funds. The program is prepared annually in accordance with federal requirements and must contain all projects that are to be implemented with federal transportation funding assistance. This TIP also contains Metropolitan Council's program of projects (POP) which includes transit projects for Metro Transit, Metro Mobility, contracted services and suburban transit. This hearing fulfills FTA's public participation requirements for the POP.

- **Public Hearing for comments on TIP**
  Wednesday, June 16, 2010 – 3:00 p.m.
  Metropolitan Council Chambers
  390 North Robert Street
  St. Paul, Minnesota

The TIP is prepared jointly by the Metropolitan Council and the Minnesota Department of Transportation. Projects contained in the TIP reflect the region's priorities and help implement the region's transportation plan. All specific projects are assumed to have independent utility and are fully funded unless noted otherwise in the project description. The projects in aggregate have been analyzed to determine impact on regional air quality. Progress made on implementing the region's transportation plan will be reported in the TIP and at the public hearing. The program will be adopted by the Transportation Advisory Board and approved by the Metropolitan Council. Upon request, the Council will provide reasonable accommodations to persons with disabilities. In addition to providing oral or written comments at the public hearing, comments may be made several ways:

- Written comments to: Kevin Roggenbuck, Metropolitan Council, 390 North Robert St., St. Paul, MN 55101
- Fax comments to Kevin Roggenbuck, (651) 602-1739
- Record comments on the Council's Public Information Line: (651) 602-1500
- Send comments electronically to : *data.center@metc.state.mn.us*

Comments must be received by **4:00 p.m., Tuesday, July 6, 2010.** Free copies of the draft 2011-2014 Transportation Improvement Program will be available on May 21, 2010, at the Council's Regional Data Center. **Call:** (651) 602-1140, or **TTY:** (651) 291-0904 to request a copy. The main body of the TIP will be available for review on May 21, 2010 at the Metropolitan Council's **website** at *www.metrocouncil.org*. Other background materials describing the Council's transportation planning and programming efforts also are available.

Questions about the hearings or transportation assumptions and technical materials may be directed to Kevin Roggenbuck, (651) 602-1728 or James Andrew (651) 602-1721, Metropolitan Council, 390 North Robert St., St. Paul, MN 55101.

Department of Transportation (Mn/DOT)

Engineering Services Division

Office of Construction and Innovative Contracting

Notices of Suspension and Debarment

NOTICE OF SUSPENSION

NOTICE IS HEREBY GIVEN that the Department of Transportation (Mn/DOT) has ordered that the following vendors be suspended effective December 28, 2009, until final disposition of the April 26, 2010 hearing or hearing appeal:

Riley Bros. Companies Inc. and its affiliates, Morris MN
Riley Bros. Construction Inc. and its affiliates, Morris MN

NOTICE OF DEBARMENT

NOTICE IS HEREBY GIVEN that the Department of Transportation (Mn/DOT) has ordered that the following vendors be debarred for a period of three (3) years effective February 24, 2010 until February 24, 2013:

Joseph Edward Riley, Morris,
John Thomas Riley, Morris, MN

Minnesota Statutes, Section 161.315, prohibits the Commissioner, counties, towns or home rule or statutory cities from awarding or approving the award of a contract for goods or services to a person who is suspended or debarred; including

1) any contract under which a debarred or suspended person will serve as a subcontractor or material supplier,
2) any business or affiliate which the debarred or suspended person exercises substantial influence or control, and
3) any business or entity which is sold or transferred by a debarred person remains ineligible during the period of the seller's or transfer's debarment.

Limited English Proficiency Plan

2011

For
The Metropolitan Council

PART 6 : Limited English Proficiency

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ABOUT THE METROPOLITAN COUNCIL

The Metropolitan Council was established by the Minnesota Legislature in 1967. The Council provides cost-effective transit and wastewater services, coordinates orderly and economic development, and assists communities as they plan for anticipated growth.

The Council has jurisdiction in the seven-county Minneapolis-St. Paul region comprising Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties. The Council:

- Provides an average of 252,000 bus and light rail rides each weekday.
- Collects and treats up to 250 million gallons of wastewater daily, protecting public health and the environment.
- Plans and helps fund a system of regional parks and trails – 53,000 acres in all.
- Provides affordable housing opportunities to households with low-incomes.
- Serves as the MPO for the region.

The Council develops, in cooperation with local communities, the *2030 Regional Development Framework,* a set of policies to guide the efficient growth of the region and help maintain the region's economic competitiveness.

The Council carries out the *Framework*, in part, through its plans for "regional systems" – transportation, airports, regional parks, and water resources. Council staff is organized in four divisions that focus on transportation (Metro Transit and Metropolitan Transportation Services), the environment and community development, supported by administrative and service units.

Governance

The Metropolitan Council has 17 members who are appointed by and serve at the pleasure of the governor. Sixteen Council members represent geographic districts of equal population across the region. The Council chair, the 17th member, serves at large. The role of Council members is to provide a regional perspective and work toward a regional consensus on issues facing the metropolitan area.

All meetings of the Council and its subcommittees are open to the public.

Guiding principles

- Focus on our mission.
- Balance regional needs with local concerns.
- Maximize Council account-ability.
- Involve citizens in fulfilling the Council's mission.

- Efficiently use current and future regional infrastructure, services and resources.
- Operate quality services in an inclusive, customer-focused and efficient manner.
- Encourage innovation to improve services and programs.

I. Background

Purpose

The following document serves as the plan for the Metropolitan Council to meet the legal obligation of the language access requirements in compliance with Title VI of the Civil Rights Act of 1964; Executive order 13166 and Federal Transit Administration (FTA) references in Circular 4702.1A.

This document also serves as a model to show the Council's commitment to provide meaningful access to all individuals accessing any of the Council's services. Internally this plan is intended for department managers and supervisors, and for staff who interact directly or indirectly with Limited English Proficiency (LEP) individuals. LEP legal requirements also apply to sub-recipients, subcontractors and vendors who do business with the Council. LEP community members and advocates can refer to this plan to learn about the Council's commitment to equal access. Dissemination of the Limited English Proficiency Plan is to occur via many routes. Any internal or external individual will be able to access the plan via the Internet. LEP individuals can obtain copies/translations upon request.

Further questions regarding this plan may contact:

Wanda Kirkpatrick
Director, Equal Opportunity
390 Roberts Street North
St. Paul, MN 55101
651-602-1085
Wanda.kirkpatrick@metc.state.mn.us

Authority

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., provides that *no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that receives Federal financial assistance.* The Supreme Court, in *Lau v. Nichols*, 414 U.S. 563 (1974), interpreted Title VI regulations promulgated by the former Department of Health, Education, and Welfare to hold that Title VI prohibits conduct that has a disproportionate effect on Limited English Proficient (LEP) persons because such conduct constitutes national origin discrimination.

Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," reprinted at 65 FR 50121, August 16, 2000 (*Appendix A*), *directs each Federal agency to examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services.* Federal agencies were instructed to publish guidance for their respective recipients in order to assist them with their obligations to LEP persons under Title VI. *The Executive Order states that recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.* President Bush affirmed his commitment to

Executive Order 13166 through a memorandum issued on October 25, 2001 by Assistant Attorney General for Civil Rights, Ralph F. Boyd, Jr. Federal agencies were directed to provide guidance and technical assistance to recipients of Federal funds as to how they can provide meaningful access to Limited English Proficient users of Federal programs.

The U.S. DOT published revised guidance for its recipients on December 14, 2005 (*Appendix B*). This document states that Title VI and its implementing regulations require that DOT recipients take responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are Limited English Proficient (LEP) and that recipients should use the DOT LEP Guidance to determine how best to comply with statutory and regulatory obligations to provide meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are LEP.

The Federal Transit Administration (FTA) references the DOT LEP guidance in its Circular 4702.1A, "Title VI and Title VI-Dependent Guidelines for FTA Recipients," which was published on April 13, 2007 (*Appendix C*). Chapter IV part 4 of this Circular reiterates the requirement to take responsible steps to ensure meaningful access to benefits, services, and information for LEP persons and suggests that FTA recipients and sub-recipients develop a language implementation plan consistent with the provisions of Section VII of the DOT LEP Guidance.

The DOT LEP Guidance recommends that all recipients, especially those that serve large LEP populations, should develop an implementation plan to address the needs of the LEP populations they serve. The DOT LEP Guidance notes that effective implementation plans typically include the following five elements:
1) Identifying LEP individuals who need language assistance:
2) Providing language assistance measures
3) Training staff
4) Providing notice to LEP persons
5) Monitoring and updating the plan

What is Limited English Proficiency?

Individuals with English proficiency (LEP) cannot speak, read, write or understand the English language at a level that permits him or her to interact effectively with Council staff. According to the 2000 U.S. Census, more than 10 million people reported that they do not speak English at all or do not speak English well. The number of persons reporting that they do not speak English at all or do not speak English well grew by 65 percent from 1990 to 2000.

Among limited English speakers, Spanish is the language most frequently spoken, followed by Chinese (Cantonese or Mandarin), Vietnamese, and Korean.
Transit agencies that provide language assistance to persons with Limited English Proficiency in a competent and effective manner will help ensure that their services are safe, reliable, convenient, and accessible to those persons. These efforts may attract riders who would otherwise be excluded from participating in the service because of language barriers and, ideally, will encourage riders to continue using the system after they are proficient in English and/or have more transportation options.

Catering to LEP persons may also help increase and retain ridership among the agency's broader immigrant communities in two important ways:

1) Agencies that reach out to recent immigrant populations in order to conduct a needs assessment and prepare a language implementation plan (pursuant to the DOT LEP Guidance) will send a positive message to these persons that their business is valued

2) Community outreach designed to identify appropriate language assistance measures can also assist the agency in identifying the transportation needs of immigrant and linguistically isolated populations and ensuring that an agency's transit routes, hours and days of service, and other service parameters are responsive to the needs of these populations.

Additionally, transit agencies that conduct outreach to LEP persons can increase their potential for recruiting bilingual employees to better serve the needs of the community. In summary, serving the needs of LEP persons is not only a good business decision; it fulfills the mission of the transit agency to serve the public.

Responsibilities

The following Departments were among those interviewed to obtain input on the contents of the Councils LEP Plan:

- Office of Diversity and Equal Opportunity — Wanda Kirkpatrick, Director
- Communications — Bonnie Kollodge, Director
- Customer Services — Bruce Howard, Director
John Howley, Manager Transit Information
- Marketing — Bruce Howard, Director
- Metro Transit Police — AJ Olson, Deputy Chief
- Transit Service Development — John Levin, Director
Jason Podany, Transit/GIS Planner
- Research — Libby Starling, Manager
- Human Resources — Gloria Heinz, Director
- Metro Mobility — Gerri Sutton, Assistant Director, Contracted Services

The Council Regional Administrator has designated the director of the Office of Diversity and Equal Opportunity (ODEO) the Council's Language Assistance Liaison. The

Language Assistance Liaison will be responsible for developing, executing and coordinating language services to LEP persons. The Liaison will also investigate and resolve language access complaints from the LEP community.

Definitions

Effective communication – Effective communication occurs when Council staffs have taken the necessary steps to make sure that a person with limited English proficiency is given adequate information to understand the services and benefits available and receives the benefits for which he/she is eligible. Effective communication also means that a person with limited English proficiency is able to communicate the relevant circumstances of his/her situation to the provider.

Interpretation – Interpretation means the oral or spoken transfer of a message from one language into another language.

Limited English Proficiency (LEP) - A person with limited English proficiency or "LEP" is not able to speak, read, write or understand the English language well enough to allow him/her to interact effectively with health and social services agencies and other providers.

Meaningful access – Federal standards require that organizations receiving federal funds provide meaningful access to the services for LEP individuals. A person has meaningful access when he or she:

- Is given adequate information
- Can understand the services and benefits available
- Can receive the services for which her or she is eligible and
- Can communicate the relevant circumstances of his or her situations to the service provider

Notice – Notices means proactively informing LEP customers that are entitled to LEP services.

Primary languages – Primary languages are the languages other than English that are most commonly spoken by Council customers as identified by census data and languages spoken in the seven county region public schools.

Translations – Translation means the written transfer of a message from one language into another language.

Vital Documents – Information or documents that are critical for accessing federally funded services or benefits, or are documents required by law. Documents that require a signature are considered vital. Vital documents include, but are not limited to:

- Consent and complaint forms
- Intake forms with the potential for important consequences
- Written notices of eligibility criteria, rights, denial, loss, or decreases in benefits or services
- Notices advising LEP persons of free language assistance
- Third party documents, forms or pamphlets distributed by a recipient as a public service

II. Identification of LEP Individuals in the Metropolitan Council Service Area

DOT Guidance: *"There should be an assessment of the number or proportion of LEP individuals eligible to be served or encountered and the frequency of encounters pursuant to the first two factors in the four-factor analysis.*

An assessment of the number or proportion of LEP individuals eligible to be served or encountered by the Council and the frequency of encounters with the Council is an important first step, because the Limited English Proficiency Plan should be developed to meet the specific need. The assessment involves four steps:

1. Identify the proportion of LEP persons in seven county region the Council's service area
2. Determine the frequency of contact by LEP persons with the Council's services
3. Determine the nature and importance of the services
4. Assess the current resources available and the costs to provide Language Assistance Services

Number and Proportion of LEP Persons in the Seven County Region

The 2000 Census shows that the seven-county region includes 272,741 people who are foreign born. The 2000 Census also reports that 11 percent of the region's population age 5 and over speaks a language other than English at home, 46 percent of whom speak English less than "very well". Using census data, council staff developed the following table, identifying the LEP speakers in the seven-county region. The top five languages spoken by LEP persons in the region include Spanish or Spanish Creole, Miao or Hmong, the African languages (primarily Somali), German and Vietnamese.

LEP Speakers in the Seven County Region	
Language	**Number of LEP Speakers**
Spanish or Spanish Creole	83,631
Miao, Hmong	39,982
Somali, African languages	21,363
German	15,700
Vietnamese	13,831
French	11,056
Chinese	10,582
Russian	8,548
Laotian	5,616
Arabic	4,917
Scandinavian	4,601
Other Asian languages	4,452
Mon-Khmer, Cambodian	4,320
Other Slavic languages	3,658
Korean	3,431
Tagalog	2,760
Polish	2,541
Japanese	2,522
Other Indo-European languages	2,260
Hindi	2,243
Urdu	2,205
Italian	2,201
Serbo-Croatian	2,144
Other Indic languages	2,127
Persian	1,947
Other Native American languages	1,711
Other & unspecified languages	1,481
Greek	1,103
Other West Germanic languages	1,045
Portuguese or Portuguese Creole	1,040
Hebrew	1,040
Gujarathi	890
Other Pacific Islander languages	833
Thai	824
Hungarian	465
Yiddish	446
French Creole	311
Armenian	43
Navajo	16
TOTAL	269,886

Source: 2000 Census Bureau

Using the categories of language contained in the 2000 Census, the Council created maps to show the locations of LEP persons in the service area. These maps are presented as Figures 1-5.

Figure 1

Figure 2

Figure 3

Figure 4

Figure 5

In an effort to determine if there had been substantial growth or changes in the populations whose primary language is not English since the 2000 Census, individual school districts in the seven county region were reviewed. School districts in the following counties provided data on students registered during 2006/2007 whose primary language spoken at home was not English:

- Anoka
- Carver
- Dakota
- Hennepin
- Ramsey
- Scott
- Washington

This data is useful as a first step in identifying any differences or trends during the past six years from the 2000 Census. The data is displayed on Figures 6-10, showing the locations of students whose primary language spoken at home was not English as compared to the 2000 Census LEP populations for the seven county region.

Figure 6

Figure 6

Percent of Students K-12 Whose Primary Language at Home is Spanish by School District, 2006-07

Source: MN Dept. of Education, Fall MARSS data, 2006-07.

Metropolitan Council

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Figure 8

Percent of Students K-12 Whose Primary Language at Home is Indo-European by School District, 2006-07

Source: MN Dept. of Education, Fall MARSS data, 2006-07.

Metropolitan Council

conley/381

Figure 9

Percent of Students K-12 Whose Primary Language at Home is Asian/Pacific Island by School District, 2006-07

- Less than 5%
- 5% to 9.9%
- 10% to 14.9%
- 15% to 19.9%
- 20% to 24.9%
- 25% to 28%

0 5 10 20 Miles

Source: MN Dept. of Education, Fall MARSS data, 2006-07.

Metropolitan Council

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Figure 10

Percent of Students K-12 Whose Primary Language at Home is Other* by School District, 2006-07

*Primary language is not English, Spanish, Indo-European or Asian/Pacific Island.

Source: MN Dept. of Education, Fall MARSS data, 2006-07.

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The following points summarize the findings of the assessment of the number and proportion of LEP persons in the seven-county region in 2000:

- More than 272,000 persons, 10.3 percent of the seven county region, were foreign born

- Eleven percent of the region's population age 5 and over spoke a language other than English at home, 46 percent of whom spoke English less than "very well".

- Of the languages spoken by the LEP population in the region, the following are most prevalent and appear to be growing:

Language	**Number of LEP Speakers**	**Percent of all LEP Speakers**
Spanish or Spanish Creole	83,631	31.0
Miao, Hmong	39,982	14.8
Somali, African languages	21,363	7.9
German	15,700	5.8
Vietnamese	13,831	5.1
French	11,056	4.1
Chinese	10,582	3.9

- LEP speakers use at least 24 additional languages where the number of LEP speakers for each language exceeds 1,000 persons.

- Current data from public school districts in the seven county region primarily confirm the census data, but identify a few areas where concentrations of persons whose primary language is not English have located since the 2000 Census.

Current maps can be found at:
http://www.dhs.state.mn.us/main/groups/agencywide/documents/pub/id_027798.pdf

Frequency of Contact by LEP Persons with Council Services

DOT Guidance: *"Recipients should assess, as accurately as possible, the frequency with which they have or should have contact with LEP individuals from different language groups seeking assistance, as the more frequent the contact, the more likely enhanced language services will be needed. The steps that are reasonable for a recipient that serves an LEP person on a one-time basis will be very different than those expected from a recipient that serves LEP persons daily.*

The Council does not currently collect data from its riders on their level of English proficiency. In the future, the Council will attempt to capture this specific data through periodic and/or ongoing data collection efforts. A possible approach is to utilize student

interns or others to capture English proficiency counts along selected bus corridors and light rail stations.

For purposes of this assessment, the following data sources were used to estimate the frequency of encounters by LEP persons with Council services. These sources are:

- Metro Council Call Center Data
  During 2009-2010, the Call Center received no calls requesting an alternative speaking operator.

- Metro Transit Website Data
  The Councils website received an average of 350,000 visits per month during the first quarter of 2007. The Council currently does not offer translation services for its website. As part of its work plan a translation service will be considered.

- Metro Transit Customer on-Board Survey Data
  This ongoing Customer Satisfaction Questionnaire is conducted biannually. The survey does not request LEP information, but does ask survey respondent ethnicity.

- The Council and Transit Reception Staff
  Statistics from the US Census American Community Survey (ACS) are used to estimate the frequency of contact LEP persons have with transit service. The ACS gave respondents the option to identify themselves as being able to speak English "very well", "well", "not well" or "not at all"; results are tabulated to "very well" and "less than well". For the purposes of this estimation, survey respondents who identified themselves as having the ability to speak English less than very well are considered LEP persons. Statistics released from the 2005-2007 ACS surveys include statistics for 5 of the 7 counties in the Twin Cities Metropolitan area including Hennepin, Anoka, Dakota, Ramsey and Washington counties. Statistics for Carver and Scott counties were not released due to inadequate data. For the 5 county area, the ACS survey found that for people age 5 and older, LEP make up 5.8%. For the 5 counties, 5.3% of workers age 16 and older and LEP (including Scott county reduces this number to 5.2%). In the 5 counties, 10.5% of workers age 16 and older who take public transit to work are LEP (including Scott county reduces this number to 10.3%).

  Since LEP persons make up 10.5% of transit commuters but only 5.3% of workers, we estimate that LEP workers are 1.98 times more likely to take public transit to work. The maps found of Figures 1-5 reveal LEP persons are more densely located in central city areas where midday and weekend service is more extensive. Midday and weekend transit service is typically used more often for non-work related trips. Thus this pattern of additional likelihood for LWP persons to ride transit is assumed to also exist for non-work related trips. Using the regional average of overall population at 5.8% LEP and 1.98 transit likelihood factor for LEP persons, it is estimated that 11.5% of transit riders are LEP.

Metro Mobility Ridership

Metro Mobility management and staff report that contact with LEP persons is very infrequent. In fact, Metro Mobility does not recall an applicant requesting a Metro Mobility application in another language. At the present time, Metro Mobility does not have applications or other informational material printed in other languages.

Very few of Metro Mobility trips originate in areas with high concentrations of LEP persons. With this as background, it seems reasonable to assume that a LEP person with disabilities would not be able to use Metro Mobility without a companion or a personal care attendant (PCA). According to monthly Operations Report, an average of 636 persons traveled on Metro Mobility on an average weekday with a companion or PCA. Estimates of LEP encounters were then made by using this ridership category for the general population in each jurisdiction and next, applying the percent of LEP population in that jurisdiction, to determine the potential LEP persons that would ride Metro Mobility by jurisdiction (assuming that LEP persons with a companion or PCA would use Metro Mobility at the same rate as the general population). The result is that an estimated 30 LEP persons are likely to ride Metro Mobility each day. This represents a little more than one percent of all Metro Mobility riders that use a companion or PCA.,

The following points summarize the findings of the assessment of the frequency of contact by LEP persons with the Council's services:

- No calls to the Council's Call Center or visits to the Councils websites involve use of language assistance services.

- Utilizing ridership data for Metro Transit, Metro Mobility, and applying proportions of general population riders in each jurisdiction to the proportion of LEP persons in those jurisdictions.

A substantial majority of the LEP encounters with the Council occur on Metro Transit. Accordingly, the Councils resources for language assistance will be focused more heavily on Metro Transit activities.

Areas with the highest concentrations of LEP Persons

The Council will target its language assistance services to "Hot Spot" areas in the Metro Transit service area with the highest concentrations of LEP persons. These areas are:

Based on a review of the demographic data and onsite visits to the "Hot Spot" areas and other areas with high LEP concentrations in the Metro Transit service area, these areas are appropriate to initiate LEP outreach activities.

Nature and Importance of Transit

While public transit is not an essential service, as are police, fire and medical emergency services, public transit is a key means of achieving mobility for many LEP persons. According to the 2000 Census, nationally, more than eleven percent of LEP persons

aged 16 years and over reported use of public transit as their primary means of transportation to work, compared with about four percent of English speakers. Recent immigrants to the United States (including those persons who may not be limited English proficient) use public transit at higher rates than native-born adults. However, public transit use among recent immigrants decreases with length of residence in the United States. Many immigrants desire to switch from public transit to automobile use because personal vehicles are a symbol of assimilation and cars can provide greater mobility or access to economic and social opportunities that are beyond a transit system's service area. Recent immigrants might elect to continue using public transit for at least a portion of their trips if their experience with public transit is positive. For transit agencies seeking to increase their "choice riders," it may be easier to retain riders who have past, positive impressions of the system than to attract those persons who have never or rarely used transit. Catering to LEP persons may help to increase and retain ridership among Metro Transit's immigrant communities.

Available Resources and Costs of Providing Language Assistance Services

Metro Transit is committed to assuring that resources are used to reduce the barriers that limit access to its information and services by LEP persons. Metro Transit is developing its language services plan. Where applicable, Metro Transit will provide funds to enhance it language services. This would include but not be limited to: telephone translation service, publication of "How to Ride Guides" in appropriate languages, printing of bus schedules and service change announcements in appropriate languages, website translation software, bilingual staff in the Regional Transit Information Center and in the administrative offices, and the production of video/DVDs on "How to Ride" in appropriate languages.

Metro Transit is committed to expend a reasonable portion of the budgetary dollars to meet compliance goals and fulfill the provisions of the Limited English Proficiency Plan.

III. Language Assistance Measures

DOT Guidance: *"An effective LEP plan would likely include information about the ways in which language assistance will be provided.*

Efforts to Identify Additional Language Assistance Needs

Preliminary efforts have identified the following barriers to language access:

- Existing Metro Transit materials are not translated into appropriate languages.
- There is no transit information in customer-friendly formats targeted to LEP speakers.
- Front-line transit employees need training to deal with culturally sensitive issues. Training will be developed to address this issue.
- LEP speakers have not been adequately involved in language access decisions at Metro Transit.
- The point of contact for language access at the Council is not widely known and the Council does not yet have a language access plan.
- The Council's website does not have a translation option.

Limited English Proficiency policies and procedures

The following services and activities will be considered in the plan.

The Council will develop LEP policies and procedures.

1. Oral Language Assistance

- Metro Council Call Center – Provide alternative language greetings and option for callers. TIC is staffed with bilingual operator. They have a contract for interpreter service (Tele-Interpreter) to provide translation in 85 languages.
- Light Rail Station and Bus Announcements – Service disruptions and selected safety announcements will be made in English and other languages throughout the rail system.
- "How to Ride" video/DVD is available in other languages.
- Communications works with bilingual media (TV and radio) to get out information to listeners and viewers.
- Trip Planning available in other languages through TIC.
- Translators are provided at community public meetings as appropriate.

2. Written Language Assistance

- All Metro Transit bus and rail schedules will have narrative information in English and other languages as appropriate.
- "How to Ride" Guides are available in other languages as appropriate.
- Bus detour signs are made available in other languages as appropriate.
- Service change brochures and signs printed in English and other languages as appropriate.
- Bus schedule information at all customer waiting shelters will contain key words in Spanish.
- Bilingual language signs placed in selected Metro Transit stations, as appropriate, for special events and to announce construction or other situations important to customer safety.
- Metro Transit advertises in bilingual media.
- Metro Transit's website contains a machine translator service that enables users to translate most (or all) *vital* documents into appropriate languages.
- Translated materials provided at community public meetings as appropriate.

3. Adopt standard operating procedures (SOPs) to be used by all Council frontline employees and frontline contractors when encountering a LEP customer. The SOPs may vary by service and by the type of encounter, but should include consistent elements such as:

- Use of "I Speak" cards (see Appendix D) to identify the language spoken by the customer.
- Language assistance notifications
- Provision of written translated materials
- Metro Council Call Center contact information
- Use of current technology for emergency situations
- Emergency procedures

The utilization of the SOPs will be phased in throughout the Council, starting with frontline employees and contractors who serve "Hot Spot" areas.

4. Written notification in appropriate languages, that language assistance services are available, upon request, free of charge. These language services can be requested for Council meetings, public hearings or for assistance in using Metro Transit and Metro Mobility services. Metro Transits language assistance notification message will be similar to the following notice:

> *Welcome to Metro Transit. We hope you have a safe and pleasant trip! Metro Transit will provide free interpreter services to help you ride bus, light rail and Metro Mobility. Please call us at _____ and stay on the line until a representative answers.*

The notification will be printed on "car cards" or posters that would be placed in all buses and light rail cars. In addition, the notification will be posted on Councils website and emphasized at staff training.

5. Distribute Council multilingual materials, such as the "How to Ride Guide", bilingual bus schedules and "How to Ride" videos/DVDs to the community organizations identified as well as other organizations that were identified in outreach efforts. Identify documents that are considered "vital" to users of bus, light rail and Metro Mobility, translate these materials, and expand the distribution of all multilingual materials to include all areas that have significant LEP populations.

6. Develop and implement a program of "training" LEP community leaders so that they can "train" LEP persons in their communities on how to use Council services and how to obtain language assistance services.

7. Increase the Council's internal bilingual capabilities by identifying and certifying bilingual employees to provide oral language assistance, as needed. Initially, the Council will conduct a survey of current employees to identify existing language skills and determine interest in providing language assistance to LEP persons. The Council will develop a Language Assistance Resource Team of employees willing to participate in interpreter training and willing to serve as interpreters at Council meetings, public hearings, and outreach activities such as the program to provide "training" to LEP community. The Council will also continue its efforts to recruit and hire bilingual/multilingual frontline employees by participating in community job fairs and advertising in publications and media that reach diverse populations.

8. Expand the program for providing public announcements on Metro Transit light rail and Metro Transit bus in LEP languages. Initially, the emphasis will be on safety and security related public announcements in alternative languages and English on the Enunciator system. The program will be expanded to include service interruptions. Languages will be added as appropriate.

9. Employ increased use of pictographs or other symbols throughout the Metro Transit system to convey messages on how to use bus and light rail and Transit safety information to LEP persons, including those who have limited literacy in their native language.

10. Based on demographics of surrounding area, provide interpreter services at public meetings and translated materials. Provide these services, upon request, at Council meetings and all public hearings.

11. Utilize bilingual Council staff and staff from community groups to monitor language assistance measures by using the website, contacting the call center and riding Metro Transit bus, light rail and Metro Mobility services, posed as customers to identify continuing barriers faced by LEP persons.

12. Metro Transit does not currently collect data from its riders on their level of English proficiency. In the future, Transit will attempt to capture this specific data through periodic and/or ongoing data collection efforts.

IV. Staff Training

DOT Guidance: "*Staff members should know their obligations to provide meaningful access to information and services for LEP persons, and all employees in public contact positions should be properly trained." An effective LEP plan would likely include training to ensure that:*

- Staff will be trained about LEP policies and procedures.
- Staff having contact with the public (or those in a recipient's custody) are trained to work effectively with in-person and telephone interpreters.

Due to the size and complexity of the Council's workforce, several training options will be made available;

- Formal training
- Computer based training
- Informal training

The Council will develop a mandatory training program for front line employees and their managers and supervisors, to include the following information:

- A summary of the Council's responsibilities under the DOT LEP Guidance;
- A summary of the Council's Limited English Proficiency Plan;
- A summary of the number and proportion of LEP persons in seven county region, the frequency of contact between the LEP population and the Council's programs and activities, and the importance of the programs and activities to the population;
- A description of the type of language assistance that the Council will be providing and instructions on how staff can access these products and services.

The Council may use the following resources in the development of its training programs:

- "Breaking down the Language Barrier: Translating Limited English Proficiency into Practice." This video, which is available on DVD and as a streaming video link on www.lep.gov, explains the language access requirements of Title VI and Executive Order 13166 through vignettes that expose the problems resulting from the absence of language assistance. The video goes on to show how these same situations could have been handled more appropriately if the service provider took reasonable steps to provide meaningful access.

- “Providing Language Access for Persons with Limited English Proficiency,” a PowerPoint presentation produced by the FTA Office of Civil Rights and available at http://www.fta.dot.gov/civilrights/title6/civil_rights_5102.html.

- “How to Engage Low-Literacy and Limited English Proficient Populations in Transportation Decision making,” available at http://www.fhwa.dot.gov/hep/lowlim. This report documents “best practices” in identifying and engaging low-literacy and LEP populations in transportation decision making. These “best practices” were collected during telephone interviews with individuals in 30 States.

- “Guidelines for Developing Traffic Safety Educational Materials for Spanish-Speaking Audiences,” a manual developed by the Education in Traffic Safety project, Education Development Center, Inc., with funding from the National Highway Traffic Safety Administration. The manual is organized into three sections: research and planning, creating materials, and dissemination and evaluation. Available at http://www.nhtsa.dot.gov/people/injury/airbags/TESM/index.htm

V. Providing notice to LEP persons

DOT Guidance: *"Once an agency has decided, based on the four factors, that it will provide language services, it is important that the recipient notify LEP persons of services available free of charge (emphasis added). Recipients should provide this notice in languages LEP persons would understand.*

Metro Transit will publish signs to be posted on buses and light rail cars and at major bus transfer points and at light rail stations with a notice similar to the following:

> *Welcome to Metro Transit, we hope you have a safe and pleasant trip! Metro Transit will provide free interpreter services to help you ride our buses, light rail and Metro Mobility. Please call us at _____ and stay on the line until a representative answers.*

This notice will be posted in appropriate languages on cards, such as the "car cards" placed for advertisement.

Additionally, Metro Transit will include the notices in outreach documents to be sent to community organizations and will place notices in the following locations:

- Local media, including newspapers, television and radio stations serving LEP communities
- Schools, social service agencies and religious organizations
- Council website and Intranet
- As handouts in staff training materials

VI. MONITORING AND UPDATING THE LEP

DOT Guidance: *"Recipients should, where appropriate, have a process for determining, on an ongoing basis, whether new documents, programs, services, and activities need to be made accessible for LEP individuals, and they may want to provide notice of any changes in services to the LEP public and to employees.*

The Council will monitor the strengths and weaknesses of the LEP plan on an ongoing basis using the following strategies:

- Solicit feedback from the LEP community by distributing a questionnaire to the community organizations and others identified during the year.

- Measure changes in the number and proportion of LEP persons eligible to be served by examining updates from the US Census and enrollment data from the public school districts in the seven county region.

- Measure actual frequency of contact by LEP persons by collecting information from the Transit Information Center, the Council website, front-line employees and through customer surveys of customers who request language assistance services.

- Consider conducting rider surveys to specifically collect LEP information.

The Council will make changes to the Limited English Proficiency Plan as needed, but at a minimum, the plan will be updated every three years to coincide with the Council's Title VI Submittal to the Federal Transit Administration.

VII. Implementation Timetable

ITEM	First half	Second half	First half	Second half
	2011	**2011**	**2012**	**2012**
Secure buy in for LEP Plan with all departments	X	X		
Develop Council policy and procedures	X	X		
Develop SOP for each department regarding their involvement with the LEP populations		X	X	
Design and implement training for staff		X	X	
Design and implement outreach activities		X	X	
Review new 2010 population information and adjust if needed		X	X	
Conduct survey to specifically collect LEP information			X	
Prepare update for Title VI submittal to the Federal Transit Administration				X

EXECUTIVE SUMMARY

On December 14, 2005, the United States Department of Transportation (DOT) published revised guidance for its recipients on the Implementation of Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency". This document states that Title VI and its implementing regulations require that DOT recipients take responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are Limited English Proficient (LEP). Recipients should use the DOT LEP Guidance to determine how best to comply with statutory and regulatory obligations to provide meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are LEP.

Key findings of the Limited English Proficiency Plan include:

- More than 272,000 persons, 10.3 percent of the seven county region, are foreign born
- Eleven percent of the region's population age 5 and over speak a language other than English at home, 46 percent of whom speak English less than "very well".
- Of the languages spoken by the LEP population in the region, the following are most prevalent and appear to be growing:

Language	**Number of LEP Speakers**	**Percent of all LEP Speakers**
Spanish or Spanish Creole	83,631	31.0
Miao, Hmong	39,982	14.8
Somali, African languages	21,363	7.9
German	15,700	5.8
Vietnamese	13,831	5.1
French	11,056	4.1
Chinese	10,582	3.9

Guiding Principles

- Title VI of the Civil Rights Act of 1964 (detailed description in Appendix 1)
- The Metropolitan Council is committed to providing meaningful access to people with limited English proficiency. This access will be defined by findings from data analyses as well as input from the regional community.
- The linguistic landscape of the Twin Cities region is dynamic. The region welcomes people from around the world. Those most in need of language access are new refugee groups establishing a community. As these new groups grow, the Council needs to be proactive about anticipating when new languages will need to accommodated.
- Implementation will consider past practices of the Council as well as present and future needs of the Council and its constituents.

As the regional transportation planning authority for the Minneapolis-St. Paul metropolitan region, this analysis and implementation plan will help to determine the need for meaningful access to transit for people who have arrived in our area from diverse national origins. This population of Minnesotans is working to learn English, and contributing to the regional economy. This plan's implementation will advance the ability for everyone in our region to participate in and receive benefits from the regional transportation network of the Metropolitan Council.

It is clear that the Council has been monitoring, evaluating and implementing feasible solutions to prevent discrimination based on national origin for a few years prior to the creation of this report. An internal baseline assessment was completed during the summer of 2010 of the current accommodation strategies already in place at the Council. While the techniques and resources were mostly concentrated in the Council functions related to housing, this assessment identifies opportunities for these accommodations to be shared throughout the other functions of the Council. It will also identify areas in need of improvement, specifically the Council's role in making their transit network and connections clear to those learning English.

This plan employs the methodological approach suggested by the Department of Justice as a four-factor analysis:

- Determine the languages spoken by residents with limited English proficiency and spatially identify which areas of the region should take priority.
- Determine the frequency with which these individuals come into contact with the Metropolitan Council.
- Determine the nature and importance of the Metropolitan Council's programs and services.
- Determine the resources available to the Council and the cost of implementation.

Once the methodology is explained, the findings are presented starting on page #&. This section will include which languages should be accommodated, how frequently they interact with Council services and programs that are important to them. This section will also highlight any specific incidents of potential for discrimination that was uncovered during the data collection period.

With the findings fully explained, this plan will explain the phased implementation. The implementation priorities are ranked by how effective a change could be. The effectiveness is measured by how economical the suggestion is and how meaningful the accommodation would be for the target group.

The ultimate goal of this plan is to make information about how to access the Met Council's services intelligible to people from any national origin. The Office of Diversity sees the initiatives of Metro Transit to develop color-coded routes a step in the right direction. This initiative focuses on the principles of universal design, which encourages systems and products to be designed to be usable by the greatest number of people. By making the navigation less language specific, we can avoid possible discrimination toward the LEP populations in Twin Cities Metropolitan Area.

Appendix A – Executive Order 13116, "Improving Access to Services for Persons with Limited English Proficiency"

THE WHITE HOUSE

Office of the Press Secretary
(Aboard Air Force One)

For Immediate Release August 11, 2000

EXECUTIVE ORDER

13166

IMPROVING ACCESS TO SERVICES FOR
PERSONS WITH LIMITED ENGLISH PROFICIENCY

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP), it is hereby ordered as follows:

Section 1. Goals.

The Federal Government provides and funds an array of services that can be made accessible to otherwise eligible persons who are not proficient in the English language. The Federal Government is committed to improving the accessibility of these services to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. To this end, each Federal agency shall examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency. Each Federal agency shall also work to ensure that recipients of Federal financial assistance (recipients) provide meaningful access to their LEP applicants and beneficiaries. To assist the agencies with this endeavor, the Department of Justice has today issued a general guidance document (LEP Guidance), which sets forth the compliance standards that recipients must follow to ensure that the programs and activities they normally provide in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations. As described in the LEP Guidance, recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

Sec. 2. Federally Conducted Programs and Activities.

Each Federal agency shall prepare a plan to improve access to its

federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities. Agencies shall develop and begin to implement these plans within 120 days of the date of this order, and shall send copies of their plans to the Department of Justice, which shall serve as the central repository of the agencies' plans.

Sec. 3. Federally Assisted Programs and Activities.

Each agency providing Federal financial assistance shall draft title VI guidance specifically tailored to its recipients that is consistent with the LEP Guidance issued by the Department of Justice. This agency-specific guidance shall detail how the general standards established in the LEP Guidance will be applied to the agency's recipients. The agency-specific guidance shall take into account the types of services provided by the recipients, the individuals served by the recipients, and other factors set out in the LEP Guidance. Agencies that already have developed title VI guidance that the Department of Justice determines is consistent with the LEP Guidance shall examine their existing guidance, as well as their programs and activities, to determine if additional guidance is necessary to comply with this order. The Department of Justice shall consult with the agencies in creating their guidance and, within 120 days of the date of this order, each agency shall submit its specific guidance to the Department of Justice for review and approval. Following approval by the Department of Justice, each agency shall publish its guidance document in the Federal Register for public comment.

Sec. 4. Consultations.

In carrying out this order, agencies shall ensure that stakeholders, such as LEP persons and their representative organizations, recipients, and other appropriate individuals or entities, have an adequate opportunity to provide input. Agencies will evaluate the particular needs of the LEP persons they and their recipients serve and the burdens of compliance on the agency and its recipients. This input from stakeholders will assist the agencies in developing an approach to ensuring meaningful access by LEP persons that is practical and effective, fiscally responsible, responsive to the particular circumstances of each agency, and can be readily implemented.

Sec. 5. Judicial Review.

This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or employees, or any person.

WILLIAM J. CLINTON

THE WHITE HOUSE,
August 11, 2000.

Appendix B – U.S. DOT LEP Guidance to Recipients, 12/14/05

http://www.usdoj.gov/crt/cor/lep/DOJFinLEPFRJun182002.htm

Appendix C – FTA Circular 4702.1 A, issued April 13, 2007

http://www.fta.dot.gov/documents/Title_VI_Circular_2007-04-04_(FINAL)_(4).doc

Appendix D – Census Bureau "I Speak" Cards

http://www.dol.gov/oasam/programs/crc/ISpeakCards.pdf

Appendix E – Summary of issues from other agencies regarding their LEP Plans

Most people in LEP communities are not aware that the agencies offer multilingual materials and language assistance services.

Most people in LEP communities do not use the telephone information oral language services.

Community organizations do not have information to share with LEP communities.

LEP persons rely on friends and family members to teach them how to ride transit.

LEP persons often work more than one job and rely on transit to get them there, often, far distances from their homes.

LEP persons, especially new immigrants, are wary of outsiders. They rely on community groups and leaders who they have come to trust.

Transit agencies should train community groups to train LEP persons about their agencies ("Train the Trainer").

Machine translators often result in translations that are inaccurate and out of context.

The process of developing a Language Access Plan takes many years and is an ongoing process.

Be sure to check translations before printing or posting on the Internet.

If the transit agency emailed "links" to multilingual information, the community organizations could print and distribute the information to LEP persons.

Transit agency information in other languages should be simple and easy to understand; current information is too detailed and complicated.

LEP persons are not familiar with computers and machines, such as fare vending equipment.

LEP persons are moving out to find affordable housing.

First generation immigrants may use transit, but the second generation wants to get a car.

Many recent immigrants satisfy their transportation needs by sharing a single auto among many family members and do not on transit.

Immigrants who have a bad experience on transit can stop them from trying transit again.

Transit agency employees, including transit police can be rude and threatening to LEP persons.

Appendix F – Language Assistance Checklists

1. QUESTIONS TO ASK COMMUNITY GROUPS SERVING LEP PERSONS

The DOT LEP Guidance states that the nature of language assistance an agency provides should be based in part on the number and proportion of LEP persons served by the recipient, the frequency of contact between the recipient and the LEP population, and the importance of the service provided by the recipient to the LEP population.

In order to better analyze these factors, transit agencies are encouraged to consult with community organizations serving LEP persons and ask some or all of the following questions:

- What geographic area does your agency serve?
- How many people does your agency provide services to?
- Has the size of the population you serve increased, stayed the same, or decreased over the past five years?
- What are the countries of origin from which your population has immigrated?
- Does your population come from an urban or rural background?
- What are the languages spoken by the population you serve?
- What is the age and gender of your population?
- What is the education and literacy level of the population you serve?
- What needs or expectations for public services has this population expressed?
- Has the population inquired about how to access public transportation or expressed a need for public transportation service?
- What are the most frequently traveled destinations?
- Are there locations that the population has expressed difficulty accessing via the public transportation system?
- Do the transit needs and travel patterns of the population vary depending on the age or gender of the population members?
- What is the best way to obtain input from the population?
- Who would the population trust most in delivering language appropriate messages?
-

2. LEP SURVEY/FOCUS GROUP QUESTIONS

Transit agencies implementing the four-factor analysis described in the DOT LEP Guidance are encouraged to consult directly with LEP persons to determine how frequently these persons use the agency's service and the importance of the service to LEP persons.

Section II of this handbook recommends that agencies gather input from LEP persons using focus groups and surveys. Agencies using these methods should consider asking some or all of the following questions:

- Do you use public transportation?

If a person answers "yes," ask the following questions:

- How often do you use public transportation?
- What kinds of public transportation do you use—trains, buses, the city subway?
- When do you use public transportation? For what purpose?
- Are you satisfied with the transportation you use?
- Do you have any suggestions how the people who run the transportation services could improve it to make it work better for you? Please be as specific as you can.

If a person answers "no" to the first question, ask the following questions:

- How do you travel if you have to go somewhere in your area?
- Would you use public transportation if the trains or buses were set up differently?
- If the person answers "yes," to this question, then ask:
- Which transit systems would you use?
- How can the people who run that system improve it to make it work better for you?[2]

When possible, survey or focus group questions should be provided to advocacy groups and other interested organizations so that they may provide feedback on the instrument and offer additional suggestions.

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[2] ***These questions are adopted from "Mobility Information Needs of Limited English Proficiency (LEP) Travelers in New Jersey" a report produced by the New Jersey Institute of Technology for the New Jersey Department of Transportation***

3. LANGUAGE ASSISTANCE MEASURES CURRENTLY BEING OFFERED BY TRANSIT PROVIDERS

The Government Accountability Office and the New Jersey Department of Transportation have identified the following language assistance measures that have been deployed by public transportation providers. Each agency should determine its appropriate mix of services after conducting the DOT LEP Guidance's four-factor analysis.

More information about these assistance measures, including which measures are most frequently used, can be found in the GAO report, "Transportation Services: Better Dissemination and Oversight of DOT's Guidance Could Lead to Improved Access for Limited English-Proficient Populations," and the New Jersey Department of Transportation report, "Mobility Information Needs of Limited English Proficiency (LEP) Travelers in New Jersey." Web links to these documents are available in Section V of this handbook.

I—Written Language Assistance (check all that applies):

Bilingual or multilingual versions of the following information:
____"How to ride" brochures
____Fare payment instructions
____System maps and timetables
____Public service announcements
____Safety and security announcements
____Service change announcements
____Notices pertaining to upcoming events
____Complaint/commendation forms
____Pictographs in stations and in vehicles
____Ticket vending machines with multilingual functions
____"I Speak" cards to be used by station managers
____Translated information on agency websites
____Translated electronic signs

II--Oral language Assistance (check all that applies)

____ Hiring permanent, full-time staff interpreters
____Contracting for interpreters on an "as needed" basis
____Using community volunteers to interpret information
____Using bilingual staff to interpret information on an "as needed" basis
____Using telephone interpreter services
____Translated recorded announcements in stations and in vehicles

III-Community Outreach (check all that applies)

___Translated TV advertisements
___Translated radio advertisements
___Translated newspaper advertisements
___Advertisements in ethnic media

4. LANGUAGE ASSISTANCE MONITORING CHECKLIST

Periodic monitoring of language assistance measures that have been implemented can help an agency determine if assistance is being provided competently and effectively. Agencies can use the following checklist to monitor their services. Actual monitoring should be tailored to what services the agency has implemented. Depending on the language assistance provided, the following questions could be answered by periodic monitoring:

Stations

___Are translated instructions on how to make fare payments available?

___Are translated schedules, route maps, or information on how to use the system available?

___Has the information been placed in a visible location?

___How many units of the material have been distributed?

___If such information is available, are station managers aware that they have this information?

___Are announcements audible?

___Are any announcements, such as security awareness announcements, made in languages other than English?

___Does the station display information or instructions using pictographs?

___Can a person who speaks limited English or another language receive assistance from a station manager when asking for directions? How is this assistance provided?

Vehicles

___Are translated instructions on how to make fare payments available?

___Are translated schedules, route maps, or information on how to use the system available?

___Has the information been placed in a visible location?

___How many units of the material have been distributed?

___If such information is available, are vehicle operators aware that they have this information?

___Are announcements audible?

___Are any announcements, such as security awareness announcements, made in languages other than English?

___Can a person who speaks limited English or another language receive assistance from a bus operator when asking about the destination of the vehicle? How is this assistance provided?

Customer Service

___Is the customer service telephone line equipped to handle callers speaking languages other than English?

___Can customer service representatives describe to a caller what language assistance the agency provides and how to obtain translated information or oral interpretation?

___Can a person speaking limited English or a language other than English request information from a customer service representative?

Community Outreach

___Are translators present at community meetings?

___Are translated versions of any written materials that are handed out at a meeting provided?
___Can members of the public provide oral as well as written comments?

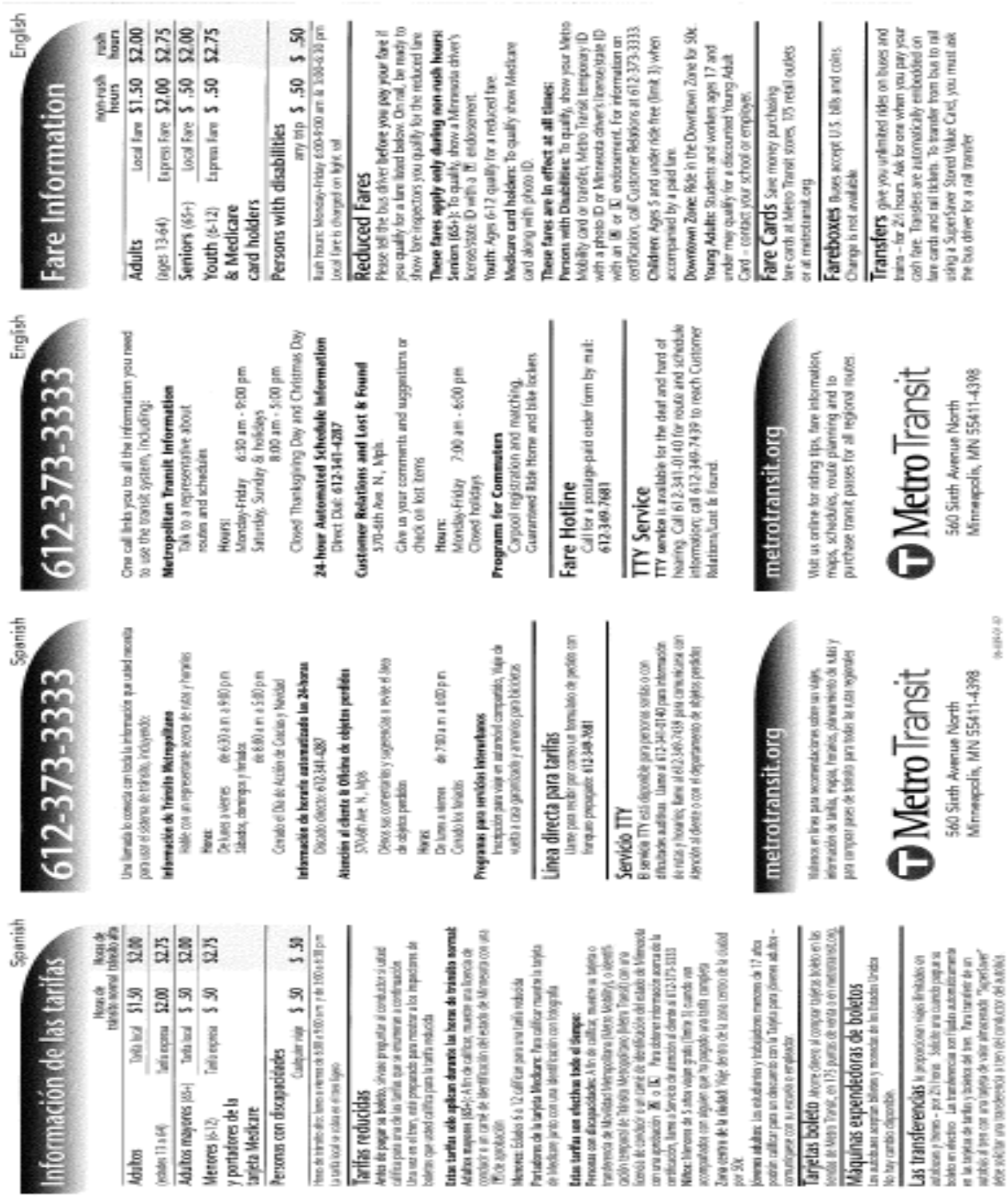
Press/Public Relations

___Are meeting notices, press releases, and public service announcements translated into languages other than English?

___Does the agency website have a link to translated information on its home page?

APPENDICES

APPENDIX 1: Title VI Brochures



Spanish

Información de las tarifas

		Horas de tránsito normal	Horas de tránsito normal tiempo alto
Adultos	Tarifa local	$1.50	$2.00
(edades 13 a 64)	Tarifa express	$2.00	$2.75
Adultos mayores (65+)	Tarifa local	$ .50	$2.00
Menores (6-12) **y portadores de la tarjeta Medicare**	Tarifa express	$ .50	$2.75
Personas con discapacidades	Cualquier viaje	$ .50	$ .50

Horas de tránsito: días laborables entre las 6:00 a.m. y las 9:00 a.m. y de 3:00 a.m. a 6:30 p.m.
La tarifa local se cobra en el mismo lugar.

Tarifas reducidas

Antes de pagar su boleto, debe pedir al conductor si usted califica para una de las tarifas que se enumeran a continuación. Una vez en el tren, esté preparado para mostrar a los inspectores de boletos que usted califica para la tarifa reducida.

Estas tarifas sólo aplican durante las horas de tránsito normal.

Adultos mayores (65+): A fin de calificar, muestre una licencia de conducir o un carné de identificación del estado de Minnesota con una TIF de aprobación.

Menores: Edades 6 a 12 califican para una tarifa reducida.

Portadores de la tarjeta Medicare: Para calificar, muestre la tarjeta de Medicare junto con una identificación con fotografía.

Estas tarifas son válidas todo el tiempo:

Personas con discapacidades: A fin de calificar, muestre su tarjeta o transferencia de Movilidad Metropolitana (Metro Mobility), o identificación temporal de Tránsito Metropolitano (Metro Transit) con una licencia de conducir o un carné de identificación del estado de Minnesota con una aprobación TIF o ID. Para obtener información acerca de la certificación, llame a Servicio de atención al cliente al 612-373-3333.

Niños: Menores de 5 años viajan gratis (Tarifa 1) cuando son acompañados con alguien que ha pagado una tarifa completa.

Zona central de la ciudad: Viaje dentro de la zona central de la ciudad por 50¢.

Jóvenes adultos: Los estudiantes y trabajadores menores de 17 años pueden calificar para un descuento con la Tarjeta para jóvenes adultos – comuníquese con su empleador o empleador.

Tarjetas boleto

Ahorre dinero al comprar tarjetas boleto en los kiosqueos de Metro Transit, en 175 puntos de venta o en metrotransit.org.

Máquinas expendedoras de boletos

Las autobuses aceptan billetes y monedas de las Estados Unidos. No hay cambio disponible.

Las transferencias

le proporcionan viajes ilimitados en autobuses y trenes – por 2½ horas. Solicite una cuando pague su boleto en efectivo. Las transferencias son impresas automáticamente en las tarjetas de tarifas y boletos del tren. Para transferir de un autobús a otro con una tarjeta de viaje almacenada "superliner" debe solicitar una transferencia al lado del conductor del autobús.

Spanish

612-373-3333

Una llamada lo conecta con toda la información que usted necesita para usar el sistema de tránsito, incluyendo:

Información de Tránsito Metropolitano
Hable con un representante acerca de rutas y horarios

Horas:
De lunes a viernes de 6:30 a.m. a 9:00 p.m.
Sábados, domingos y feriados de 8:00 a.m. a 5:00 p.m.
Cerrado el Día de Acción de Gracias y Navidad

Información de horario automatizado las 24-horas
Directo directo: 612-341-4287

Atención al cliente & Oficina de objetos perdidos
530 4th Ave. N., Mpls

Déjeno sus comentarios y sugerencias o revise el lista de objetos perdidos

Horas:
De lunes a viernes de 7:00 a.m. a 6:00 p.m.
Cerrado los feriados

Programas para servicios interurbanos
Inscripción para viaje en autobús compartido, Viaje de vuelta a casa garantizado y arrientos para bicicletas

Línea directa para tarifas

Llame para recibir por correo un formulario de pedido con franqueo prepagado: 612-349-7681

Servicio TTY

El servicio TTY está disponible para personas sordas o con dificultades auditivas. Llame al 612-341-0140 para información de rutas y horarios; llame al 612-349-7439 para comunicarse con Atención al cliente o con el departamento de objetos perdidos.

metrotransit.org

Visítanos en línea para recomendaciones sobre un viaje, información de tarifas, mapas, horarios, almacenamiento de bicicletas y para comprar pases de boletos para todas las rutas regionales.

Metro Transit
560 Sixth Avenue North
Minneapolis, MN 55411-4398

English

612-373-3333

One call links you to all the information you need to use the transit system, including:

Metropolitan Transit Information
Talk to a representative about routes and schedules

Hours:
Monday-Friday 6:30 am - 9:00 pm
Saturday, Sunday & holidays 8:00 am - 5:00 pm
Closed Thanksgiving Day and Christmas Day

24-hour Automated Schedule Information
Direct Dial: 612-341-4287

Customer Relations and Lost & Found
530 4th Ave. N., Mpls

Give us your comments and suggestions or check on lost items

Hours:
Monday-Friday 7:00 am - 6:00 pm
Closed holidays

Programs for Commuters
Carpool registration and matching, Guaranteed Ride Home and bike lockers

Fare Hotline

Call for a postage-paid order form by mail: 612-349-7681

TTY Service

TTY service is available for the deaf and hard of hearing. Call 612-341-0140 for route and schedule information; call 612-349-7439 to reach Customer Relations/Lost & Found.

metrotransit.org

Visit us online for riding tips, fare information, maps, schedules, route planning and to purchase transit passes for all regional routes.

Metro Transit
560 Sixth Avenue North
Minneapolis, MN 55411-4398

English

Fare Information

		non-rush hours	rush hours
Adults	Local Fare	$1.50	$2.00
(ages 13-64)	Express Fare	$2.00	$2.75
Seniors (65+)	Local Fare	$ .50	$2.00
Youth (6-12) **& Medicare card holders**	Express Fare	$ .50	$2.75
Persons with disabilities	any trip	$ .50	$ .50

Rush hours: Monday-Friday 6:00-9:00 am & 3:00-6:30 pm
Local fare is charged on light rail.

Reduced Fares

Please tell the bus driver before you pay your fare if you qualify for a fare listed below. On rail, be ready to show fare inspectors you qualify for the reduced fare.

These fares apply only during non-rush hours:

Seniors (65+): To qualify, show a Minnesota driver's license/state ID with a TIF endorsement.

Youth: Ages 6-12 qualify for a reduced fare.

Medicare card holders: To qualify show Medicare card along with photo ID.

These fares are in effect at all times:

Persons with Disabilities: To qualify, show your Metro Mobility card or transfer, Metro Transit temporary ID with a photo ID or Minnesota driver's license/state ID with an TIF or ID endorsement. For information on certification, call Customer Relations at 612-373-3333.

Children: Ages 5 and under ride free (limit 3) when accompanied by a paid fare.

Downtown Zone: Ride in the Downtown Zone for 50¢.

Young Adults: Students and workers ages 17 and under may qualify for a discounted Young Adult Card – contact your school or employer.

Fare Cards

Save money purchasing fare cards at Metro Transit stores, 175 retail outlets or at metrotransit.org

Fareboxes

Buses accept U.S. bills and coins. Change is not available.

Transfers

give you unlimited rides on buses and trains – for 2½ hours. Ask for one when you pay your cash fare. Transfers are automatically embedded on fare cards and rail tickets. To transfer from bus to rail using a SuperSaver Stored Value Card, you must ask the bus driver for a rail transfer.

If you believe that you have been discriminated against because of your race, color, national origin, sex, age, disability or socioeconomic status, you may file a written complaint with the Metropolitan Council's Office of Diversity and Equal Opportunity.

Tell how you were not treated the same as others. Give your name, address and phone number. You must sign and date your letter.

Or you can access a **Title VI complaint form** at *Metrocouncil.org*.

Send your letter to:
Director of Equal Opportunity
Metropolitan Council
390 North Robert Street
St. Paul, MN 55101

Or you can contact us by phone at **651-602-1085**
or by e-mail at *data.center@metc.state.mn.us*.

Upon request, this publication will be made available in alternative formats to people with disabilities.

Call the Metropolitan Council Data Center at 651.602.1140 or TTY 651.291.0904

Peter Bell
Chair, Metropolitan Council

Tom Weaver
Regional Administrator

Wanda Kirkpatrick
Director, Equal Opportunity

Metropolitan Council

Your Rights under TITLE VI and Related Laws

Metropolitan Council

Your Rights under Title VI and Related Laws

The Metropolitan Council pledges that you will have access to all our programs, services and benefits without regard to race, color, national origin, sex, age, disability or socioeconomic status.

The Metropolitan Council will not tolerate discrimination by its employees or by those who receive federal funds from the Council. The Council prohibits all discriminatory practices that may result in an individual:

- Being denied any service, financial aid or benefit provided under a program to which he or she may be otherwise entitled;
- Being held to different standards or requirements for participation;
- Experiencing segregation or separate treatment in any part of a program;
- Being subject to distinctions in quality, quantity or manner in which a benefit is provided
- Experiencing discrimination in any activities conducted in a Metro Transit facility built in whole or part with Federal funds.

Further,
The Metropolitan Council will:

- Avoid or reduce harmful human health and environmental effects on minority and low income populations;
- Ensure full and fair participation by all communities, including low income and minority populations in the transportation decision-making process;
- Prevent the denial of reduction in or significant delay in the receipt of benefits by minority and low income populations.

These rights are guaranteed to you under Title VI of the Civil Rights Act of 1964, which says in part:

"No person in the United State shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." (42 U.S.C. Sec200d)

In addition, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 1994 provides:

"Each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."

Title VI also have provisions through 70 FR 74087 regarding responsibilities to **"Limited English Proficient Persons."** This guidance is based on the prohibition against national origin discrimination.

APPENDIX 2: Title VI Program Website

http://www.metrocouncil.org/Diversity/diversity.htm

http://www.metrocouncil.org/Diversity/NondiscriminationPledge.htm

http://www.metrocouncil.org/Diversity/DiscriminationComplaintProcess.htm

http://www.metrocouncil.org/Diversity/TitleVIComplaintForm.pdf

http://www.metrocouncil.org/Diversity/TitleVIConsentForm.pdf

APPENDIX 3: Metropolitan Council Title VI Program

On-Site Review Process

The Metropolitan Council ODEO will conduct pre- and post-award on-site reviews for various entities that receive federal assistance from the Council. Each year the ODEO will identify the entities subject to review for that calendar year. The process is listed below:

1. Initial Contact – The Title VI Consultant will make initial contact with the entity to schedule the on-site review.

2. Pre-award/Post-award On-site – During this visit, the consultant will ask a series of questions (see attached On-Site Review Observation Form) to determine what steps, if any, are necessary for the entity to become in compliance with Title VI.

3. Notification Letter – within ten days of the on-site review, the consultant will submit the on-site review form, documentation, and a listing of deficiencies found and/or will certify compliance.

4. Deficiencies and/or compliance must be issued by the Title VI Consultant conducting the on-site ONLY. Files received without the statement or documentation supporting the compliance status, will be returned and deemed incomplete.

5. Follow-up Notification – It is the Title VI Consultant's responsibility to ensure any/all follow-up notifications are processed in a timely manner. If any entity has not voluntarily complied within 30 days of the original notification, the consultant will issue a 5-day notification.

6. If the entity fails to submit the appropriate documentation to support their commitment to comply with Title VI, a non-compliance letter must be issued. It is the responsibility of the Consultant to track compliance.

7. File Documentation – Each compliance file will contain the following documents before Title VI compliance can be issued, the attached checklist will be attached in the front of the file:

    - Name of the Title VI Consultant
    - Training Roster
    - Description of how many new employees/current employees are trained (copy of training material)
    - Proof of customer notification
    - Census Data (used to determine if written LEP procedures are needed)
    - Copy of the entity's complaint and hearing procedures
    - Copy of the entity's complaint log
    - Copy of the Title VI contract assurance language used In the entity's contracts
    - Copy of the method used to monitor the race and gender of contractees
    - Limited English Proficiency, if applicable

- The on-site form must be completed in its entirety
- Correspondence routing documentation
- Method of providing contracting opportunities
- Method of monitoring contractor Title VI compliance activities
- Composition of Transportation related boards by race and gender
- Title VI Assurances or a statement indicating that the sub-recipient has adopted the Council's plan

8. Final Report – Once the necessary information is collected, a final report of compliance will be issued.

Metropolitan Council Title VI Program
On-Site Review

Date of Review _____

Entity _____

Compliance Status: Compliance _____ Non-compliance _____

- ☐ Training Roster
- ☐ Description of how new employees/current employees are trained (copy of training material)
- ☐ Proof of customer notification
- ☐ Census Data (used to determine if written LEP procedures are needed)
- ☐ Copy of the entity's complaint and hearing procedures
- ☐ Copy of the entity's complaint log
- ☐ Copy of the Title VI contract assurance language used In the entity's contracts
- ☐ Copy of the method used to monitor the race and gender of contractees
- ☐ Limited English Proficiency, if applicable
- ☐ The on-site form must be completed in its entirety
- ☐ Correspondence routing documentation
- ☐ Method of providing contracting opportunities
- ☐ Method of monitoring contractor Title VI compliance activities
- ☐ Composition of Transportation related boards by race and gender
- ☐ Title VI Assurances or a statement indicating that the sub-recipient has adopted the Council's plan

Submitted by: _____ Date: _____
Approved by: _____ Date: _____

Metropolitan Council Title VI Program
On-Site Review

Date of Review: _____ Title VI Consultant: _____

Pre-Award: _____ Post- Award: _____

Contractor: _____ Consultant:_____ Sub-recipient: _____ Supplier: _____

Entity: _____

Address:
_____
_____
_____

Phone:
_____

Fax:
_____

Email:
_____

Amount of Contract
_____

Assistance Received
_____
_____
_____

Project Description:

Assurance and Policy Statement
Are you aware of you obligation to comply with the provisions of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975?
☐ Yes ☐ No

Does your agency have a Title VI Coordination Plan or have you adopted the Council procedures?
☐ Yes ☐ No Please provide documentation

Does your agency have executed Title VI Assurances?
☐ Yes ☐ No

Poster and Notification
Are Title VI posters displayed prominently and in areas where services are provided?
☐ Yes ☐ No

Are current copies of the various laws and regulations available and accessible to every unit of the organization?
☐ Yes ☐ No

Are posters available in languages other than English?
☐ Yes ☐ No If yes, in what languages:

Do recruitment materials, program brochures, and similar publications contain a nondiscrimination statement?
☐ Yes ☐ No If so, please provide documentation:

Title VI Coordinator Information
Does the entity have a Title VI Coordinator?
☐ Yes ☐ No If yes, please provide the name and contact information:

Has the Title VI Coordinator attended any Title VI training?
☐ Yes ☐ No

Does the Title VI Coordinator have access to top level administrators?
☐ Yes ☐ No

Is there an organizational chart that shows where the Title VI Coordinators function is located?
☐ Yes ☐ No If so please provide:

To whom does the Coordinator report? Name _____ Title _____
Employee Awareness
Are new employees trained/informed on Title VI before beginning work?
☐ Yes ☐ No If so how:

How are current employees trained/informed on Title VI? How often is training provided?

Customer Awareness
How does the entity disseminate Title VI information to the general public?
Please provide documentation:

Describe the methods used to engage the community in the decision making process.

How do you advertise for employment of transportation related projects?
Please provide examples:

Do recruitment materials, program brochures, and similar publications contain a nondiscrimination statement?
☐ Yes ☐ No Please provide examples:

How often are your customers informed of their rights under Title VI? Please provide documentation of the last notification.

Who is responsible for informing customers of their rights under Title VI? How is it documented?

What methods are used to ensure that Disadvantaged Business Enterprises (DBE's) and minority owned businesses are afforded the opportunity to participate in contracting and sub-contracting activities:

What methods are used to ensure that DBEs and minority owned businesses are informed of Title VI?

How many of the following groups currently hold transportation related contracts in your agency?

Place a number by each group:

Gender:	Male	Female	
Ethnicity:	Hispanics		
Race:	Asian American	African Americans	
	Native Americans	Whites	

Do all contracts contain a Title VI nondiscrimination assurance language and/or statement of compliance?
☐ Yes ☐ No Please provide documentation:

How are contractors/consultants monitored for Title VI compliance?

Complaint and Hearing System
Does your organization have a written complaint and hearing procedure for Title VI in place?
☐ Yes ☐ No

Is a copy of the complaint and hearing procedure distributed to beneficiaries?
☐ Yes ☐ No

Does your complaint and hearing system include the following:
Explain how to file a complaint? ☐ Yes ☐ No

Provide for a complainant to be represented by an attorney or other representative of his/her own choosing? ☐ Yes ☐ No

Notify all parties of their right to bring witnesses and present testimony and evidence?
☐ Yes ☐ No

Require final action to be taken on a complaint within 60 days of filing?
☐ Yes ☐ No

Require a written decision be issued by hearing officers to complaints and all involved parties? ☐ Yes ☐ No

Recordkeeping

Does your organization utilize a Title VI Complaint log? ☐ Yes ☐ No

Provide instructions on how and where to file Appeals?

Do you have a system for complaint files? ☐ Yes ☐ No
Please provide:

Data Collection

Population Demographics of the Service Area:

What is your service area?

Gender: Male Female
Ethnicity:
% Hispanic or Latino
Race:
% African American
% White
% American Indian or Alaska Native
% Asian American
% Native Hawaiian or Pacific Islander

Limited English Proficiency

Are you aware of your obligation to comply with Executive Order 13166 Limited English Proficiency (LEP) ?
☐ Yes ☐ No

Does your organization have a LEP plan?
☐ Yes ☐ No

How do you ensure persons with LEP can access your service? Please provide documentation:

Provide your LEP four factor analysis:

Resources available to provide services in other languages:

Environmental Justice

Are you aware of your obligation to comply with Executive Order 12898 Environmental Justice?
☐ Yes ☐ No

Does your organization have a public involvement plan?
☐ Yes ☐ No

Do your public involvement activities identify and address the needs of minority and low-income populations in making transportation decisions?
☐ Yes ☐ No If yes please explain how:

Are public meetings held at locations and times accessible to low-income and minority communities?
☐ Yes ☐ No Please provide examples:

During the last three years, has the Title VI coordinator attended public meetings and/or hearings held for projects with potential Title VI impacts?
☐ Yes ☐ No Please explain:

Transportation Related Boards, Commissions and Advisory bodies

Do you have a transportation related appointed board, commission or advisory body? ☐ Yes ☐ No

Please provide the following information for each member of each entity:
Name

Gender
Race/Ethnicity

Metropolitan Council Title VI Plan
Sub-Recipient Responsibilities

Title VI Plan Review, Acceptance, and Self Certification
Sub-recipients must submit their Title VI plan to the Metropolitan Council for review and acceptance. You will be notified of your plans acceptance or advised of required revisions or additions. The Council will notify sub-recipients when they must certify that their plan is still in effect and or advise the department of changes to the plan, i.e., name of new Title VI representative, new policy or procedures implemented in regard to non-discrimination, change of address, etc. *Generally, sub-recipients will not be required to submit an annual Title VI Plan.* The Council will monitor a sub-recipient's Title VI related activities on a random basis or if an issue arises in regard to Title VI.

What to Consider when Developing your Title VI Plan
Following are initiatives to consider in the development of a proactive approach to Title VI compliance and may provide assistance helpful in the development of a written Title VI policy:

• ***Appoint and Identify the Title VI coordinator or Civil Rights Staff.*** This person or unit has primary responsibility for developing the local government Title VI implementation plan, answering questions on compliance efforts, and investigating complaints.

• ***Is there minority representation on planning boards and commissions?*** Look at the racial makeup of planning and advisory boards. How people are notified of the existence of such bodies, and are they provided an equal opportunity to participate as members? What is the process for selection of board or commission members?

• ***Public notification.*** See what type of citizen participation plan is in place to inform citizens of new and existing program initiatives. Are there mechanisms to disseminate information to minority media and organizations? Are posters and brochures displayed and printed in the language spoken by those affected by the project or program. Reasonable efforts must be initiated to meet the needs of individuals who are Limited English Proficient (LEP). Generally, if 5% or more of the individuals affected by a project or program speak a language other than English, the printing of documents in the language spoken should be considered. How are individuals informed of their rights to file complaints?

• ***Data collection****.* Collect data in regard to the timeliness of services so that claims of nondiscrimination are supported by appropriate data. Collect racial data related to participants in programs and services when appropriate. Data collected should support or document that the program is being operated in compliance with Title VI. Develop a procedure to analyze the data collected to determine whether the eligible service population receives appropriate benefit from your program. Revise policies if necessary.

• ***Complaint procedure.*** Develop a Title VI or discrimination complaint procedure and ensure that employees and the public are aware of that

procedure. Information regarding the complaint procedure should be readily available when requested.

• ***Program delivery issues to consider.*** Consider whether a project is performed in an equitable manner (project decisions must be nondiscriminatory). The location, eligibility requirements, hours of service, and the methodology of service delivery should not have an adverse effect on minority applicants/beneficiaries based on race, color, or national origin. Determine whether the level of service provided is the same for minority and non-minority beneficiaries. Does the entity employ staff in beneficiary contact positions without regard to race, color, or national origin? Consider whether or not staff members are aware of their responsibility to provide services without racial/ethnic discrimination. If discrimination is discovered, there should be established procedures the sub-recipient follows to ensure compliance. Most federal agencies dispense a large proportion of their program funds through continuing state programs. Each federal agency's Office of Civil Rights can also answer questions on applicability and enforcement. The U.S. Department of Justice's Coordination and Review Section has the coordination responsibility for the federal Title VI enforcement effort. Title VI cannot work unless state and local governments actively enforce the law, and people in the community are aware of their rights.

APPENDIX 4: 2006 Census on People with Limited English Proficiency

B16001. LANGUAGE SPOKEN AT HOME BY ABILITY TO SPEAK ENGLISH FOR THE POPULATION 5 YEARS AND OVER - Universe: POPULATION 5 YEARS AND OVER
Data Set: 2006 American Community Survey
Survey: 2006 American Community Survey

NOTE. For information on confidentiality protection, sampling error, nonsampling error, and definitions, see Survey Methodology.

	Minneapolis-St. Paul-Bloomington, MN-WI Metro Area	
	Estimate	Margin of Error
Total:	2,948,944	+/-949
Speak only English	2,588,229	+/-11,629
Spanish or Spanish Creole:	123,815	+/-4,839
Speak English "very well"	65,749	+/-4,446
Speak English less than "very well"	58,066	+/-3,142
French (incl. Patois, Cajun):	11,581	+/-2,078
Speak English "very well"	9,395	+/-1,566
Speak English less than "very well"	2,186	+/-977
French Creole:	884	+/-620
Speak English "very well"	663	+/-558
Speak English less than "very well"	221	+/-271
Italian:	1,500	+/-619
Speak English "very well"	1,062	+/-395
Speak English less than "very well"	438	+/-463
Portuguese or Portuguese Creole:	2,197	+/-1,007
Speak English "very well"	1,415	+/-586
Speak English less than "very well"	782	+/-837
German:	15,320	+/-1,795
Speak English "very well"	12,565	+/-1,720
Speak English less than "very well"	2,755	+/-742
Yiddish:	0	+/-265
Speak English "very well"	0	+/-265
Speak English less than "very well"	0	+/-265
Other West Germanic languages:	563	+/-348
Speak English "very well"	509	+/-340
Speak English less than "very well"	54	+/-88
Scandinavian languages:	3,816	+/-838
Speak English "very well"	3,221	+/-805
Speak English less than "very well"	595	+/-287
Greek:	539	+/-376
Speak English "very well"	398	+/-325
Speak English less than "very well"	141	+/-178
Russian:	12,884	+/-2,665
Speak English "very well"	5,816	+/-1,710

Speak English less than "very well"	7,068	+/-1,698
Polish:	2,297	+/-807
Speak English "very well"	1,675	+/-659
Speak English less than "very well"	622	+/-421
Serbo-Croatian:	1,830	+/-1,060
Speak English "very well"	916	+/-500
Speak English less than "very well"	914	+/-618
Other Slavic languages:	2,912	+/-1,061
Speak English "very well"	2,198	+/-837
Speak English less than "very well"	714	+/-582
Armenian:	0	+/-265
Speak English "very well"	0	+/-265
Speak English less than "very well"	0	+/-265
Persian:	2,154	+/-1,139
Speak English "very well"	1,340	+/-858
Speak English less than "very well"	814	+/-559
Gujarathi:	1,206	+/-782
Speak English "very well"	952	+/-723
Speak English less than "very well"	254	+/-218
Hindi:	3,940	+/-1,434
Speak English "very well"	3,750	+/-1,412
Speak English less than "very well"	190	+/-166
Urdu:	2,333	+/-1,278
Speak English "very well"	1,901	+/-1,098
Speak English less than "very well"	432	+/-290
Other Indic languages:	4,053	+/-1,716
Speak English "very well"	3,384	+/-1,552
Speak English less than "very well"	669	+/-527
Other Indo-European languages:	3,012	+/-1,686
Speak English "very well"	1,991	+/-991
Speak English less than "very well"	1,021	+/-807
Chinese:	12,802	+/-2,447
Speak English "very well"	6,572	+/-1,635
Speak English less than "very well"	6,230	+/-1,499
Japanese:	2,198	+/-724
Speak English "very well"	1,372	+/-534
Speak English less than "very well"	826	+/-506
Korean:	4,130	+/-1,353
Speak English "very well"	1,679	+/-730
Speak English less than "very well"	2,451	+/-1,060
Mon-Khmer, Cambodian:	5,338	+/-1,690
Speak English "very well"	1,860	+/-780
Speak English less than "very well"	3,478	+/-1,343
Hmong:	44,062	+/-4,680
Speak English "very well"	23,244	+/-3,864
Speak English less than "very well"	20,818	+/-3,146
Thai:	1,440	+/-706
Speak English "very well"	651	+/-347
Speak English less than "very well"	789	+/-489
Laotian:	9,000	+/-2,736
Speak English "very well"	5,015	+/-1,783
Speak English less than "very well"	3,985	+/-1,353

Vietnamese:	16,478	+/-3,169
Speak English "very well"	6,654	+/-1,815
Speak English less than "very well"	9,824	+/-2,187
Other Asian languages:	8,462	+/-1,651
Speak English "very well"	5,752	+/-1,410
Speak English less than "very well"	2,710	+/-971
Tagalog:	2,172	+/-857
Speak English "very well"	1,685	+/-662
Speak English less than "very well"	487	+/-351
Other Pacific Island languages:	910	+/-672
Speak English "very well"	417	+/-301
Speak English less than "very well"	493	+/-569
Navajo:	49	+/-79
Speak English "very well"	49	+/-79
Speak English less than "very well"	0	+/-265
Other Native North American languages:	845	+/-452
Speak English "very well"	845	+/-452
Speak English less than "very well"	0	+/-265
Hungarian:	509	+/-261
Speak English "very well"	438	+/-256
Speak English less than "very well"	71	+/-85
Arabic:	7,532	+/-2,937
Speak English "very well"	5,461	+/-2,248
Speak English less than "very well"	2,071	+/-907
Hebrew:	2,956	+/-2,664
Speak English "very well"	2,685	+/-2,594
Speak English less than "very well"	271	+/-333
African languages:	43,314	+/-5,559
Speak English "very well"	22,964	+/-3,928
Speak English less than "very well"	20,350	+/-3,926
Other and unspecified languages:	1,682	+/-738
Speak English "very well"	1,354	+/-567
Speak English less than "very well"	328	+/-258

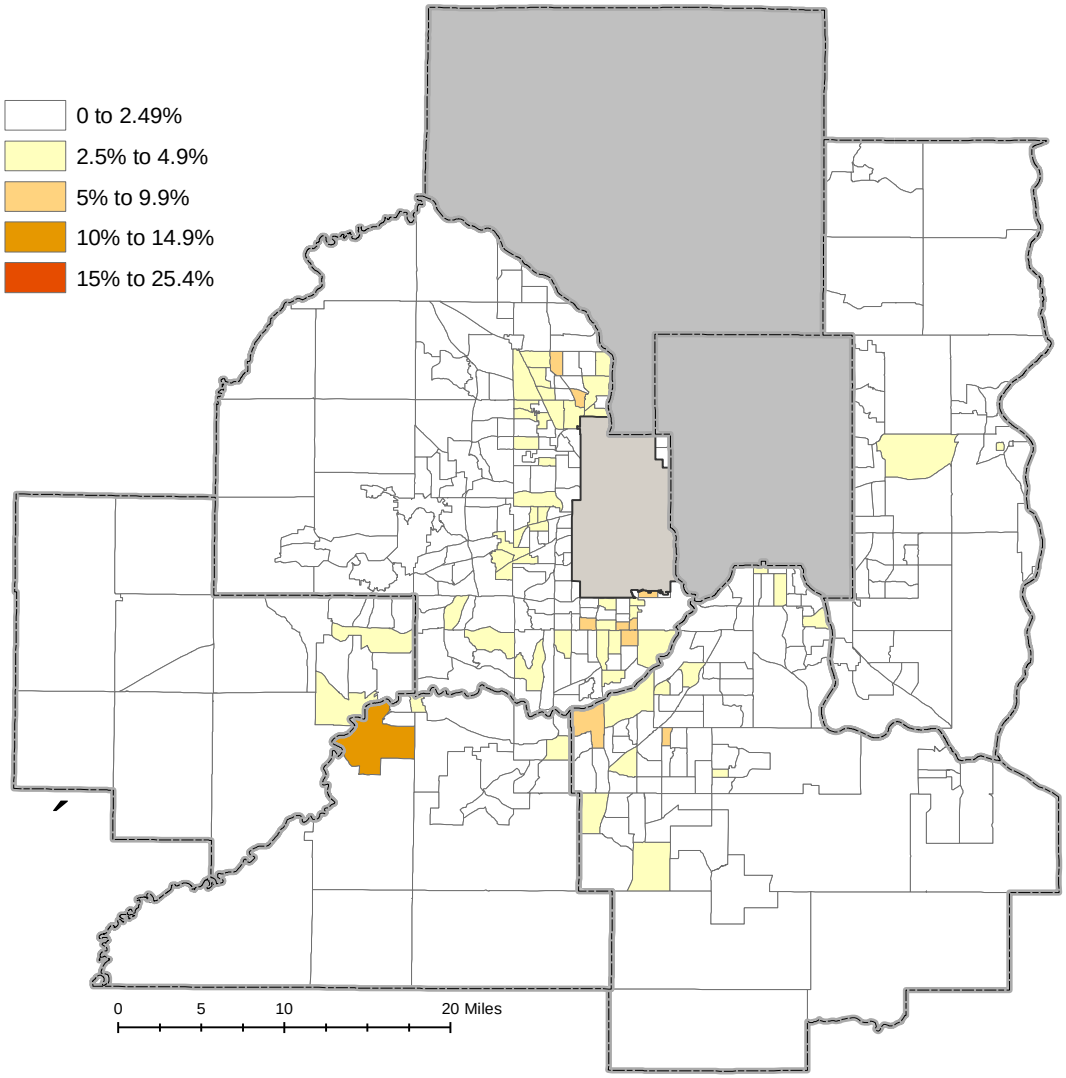
Source: U.S. Census Bureau, 2006 American Community Survey

Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error. The margin of error can be interpreted roughly as providing a 90 percent probability that the interval defined by the estimate minus the margin of error and the estimate plus the margin of error (the lower and upper confidence bounds) contains the true value. In addition to sampling variability, the ACS estimates are subject to nonsampling error (for a discussion of nonsampling variability, see Accuracy of the Data). The effect of nonsampling error is not represented in these tables.

While the 2006 American Community Survey (ACS) data generally reflect the December 2005 Office of Management and Budget (OMB) definitions of metropolitan and metropolitan statistical areas, in certain instances the names, codes, and boundaries of the principal cities shown in ACS tables may differ from the OMB definitions due to differences in the effective dates of the geographic entities.

Explanation of Symbols:
1. An '**' entry in the margin of error column indicates that either no sample observations or too few sample observations were available to compute a standard error and thus the margin of error. A statistical test is not appropriate.
2. An '-' entry in the estimate column indicates that either no sample observations or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowest interval or upper interval of an open-ended distribution.
3. An '-' following a median estimate means the median falls in the lowest interval of an open-ended distribution.
4. An '+' following a median estimate means the median falls in the upper interval of an open-ended distribution.
5. An '***' entry in the margin of error column indicates that the median falls in the lowest interval or upper interval of an open-ended distribution. A statistical test is not appropriate.
6. An '*****' entry in the margin of error column indicates that the estimate is controlled. A statistical test for sampling variability is not appropriate.

Percent of Population Age 5 and Older Who Speak English Not Well or Not At All by Census Tract, 2000



Source: 2000 Census.

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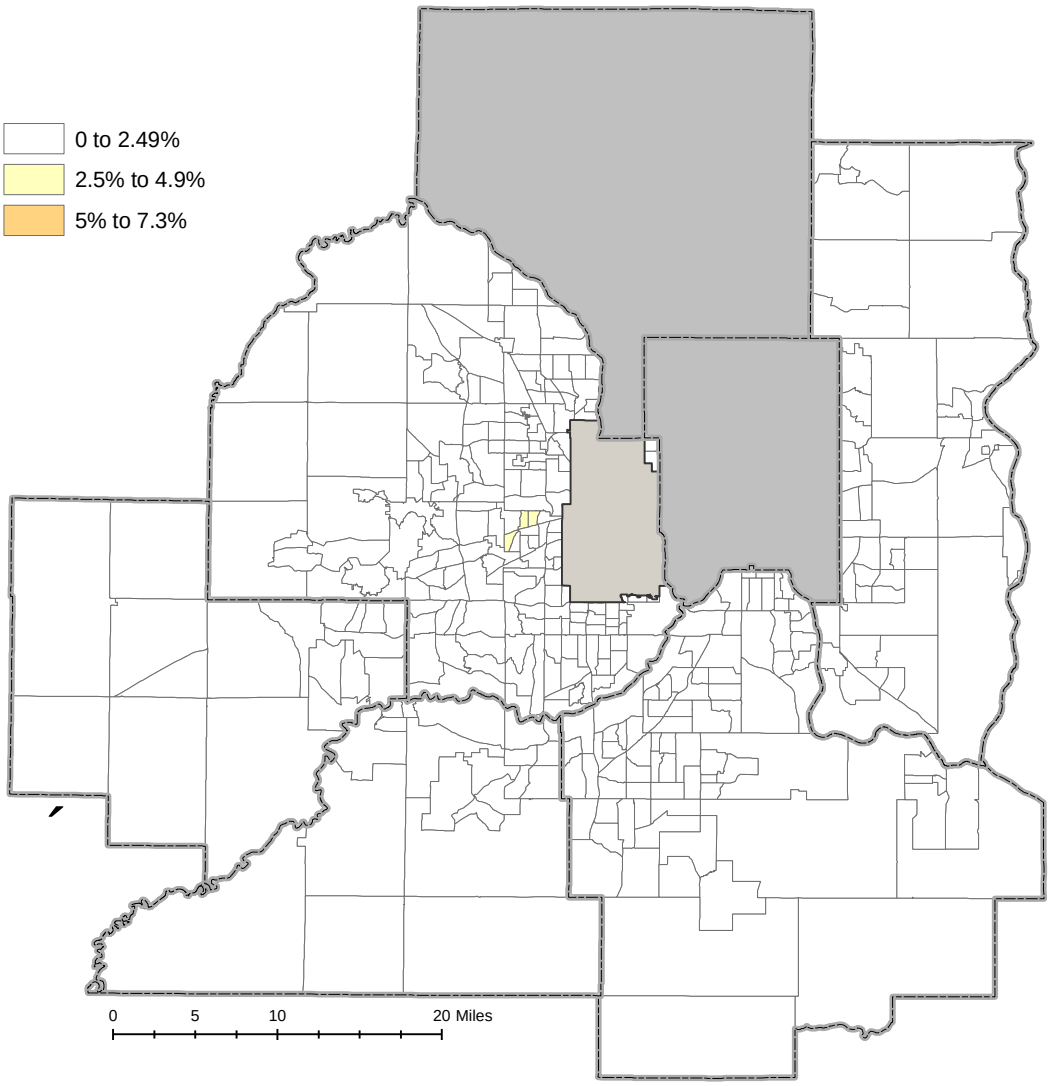
4/14/08

Metropolitan Council

Percent of Population Age 5 and Older Other Indo-European Languages Spoken at Home and Speak English Not Well or Not At All by Census Tract, 2000



Source: 2000 Census.

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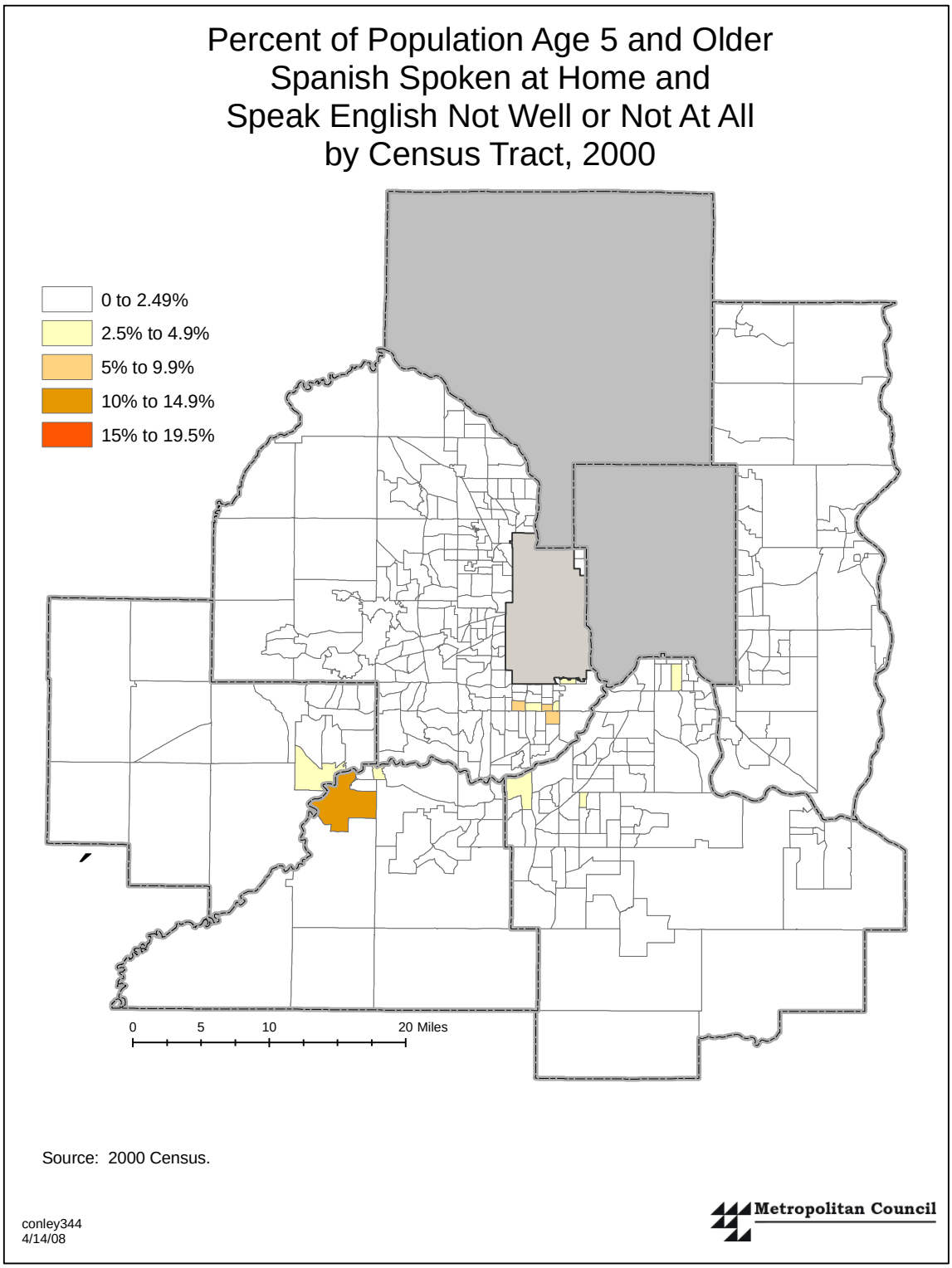
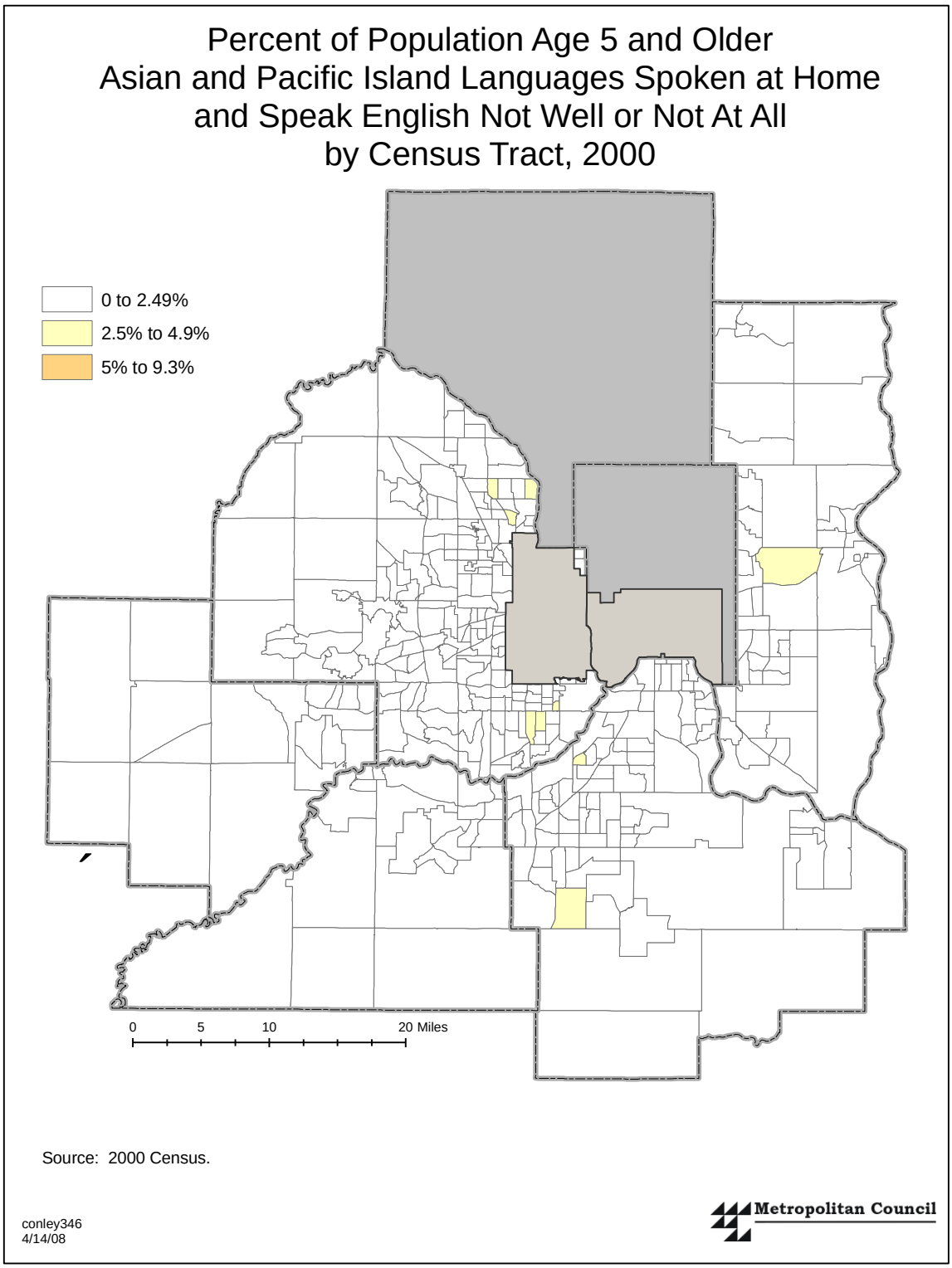
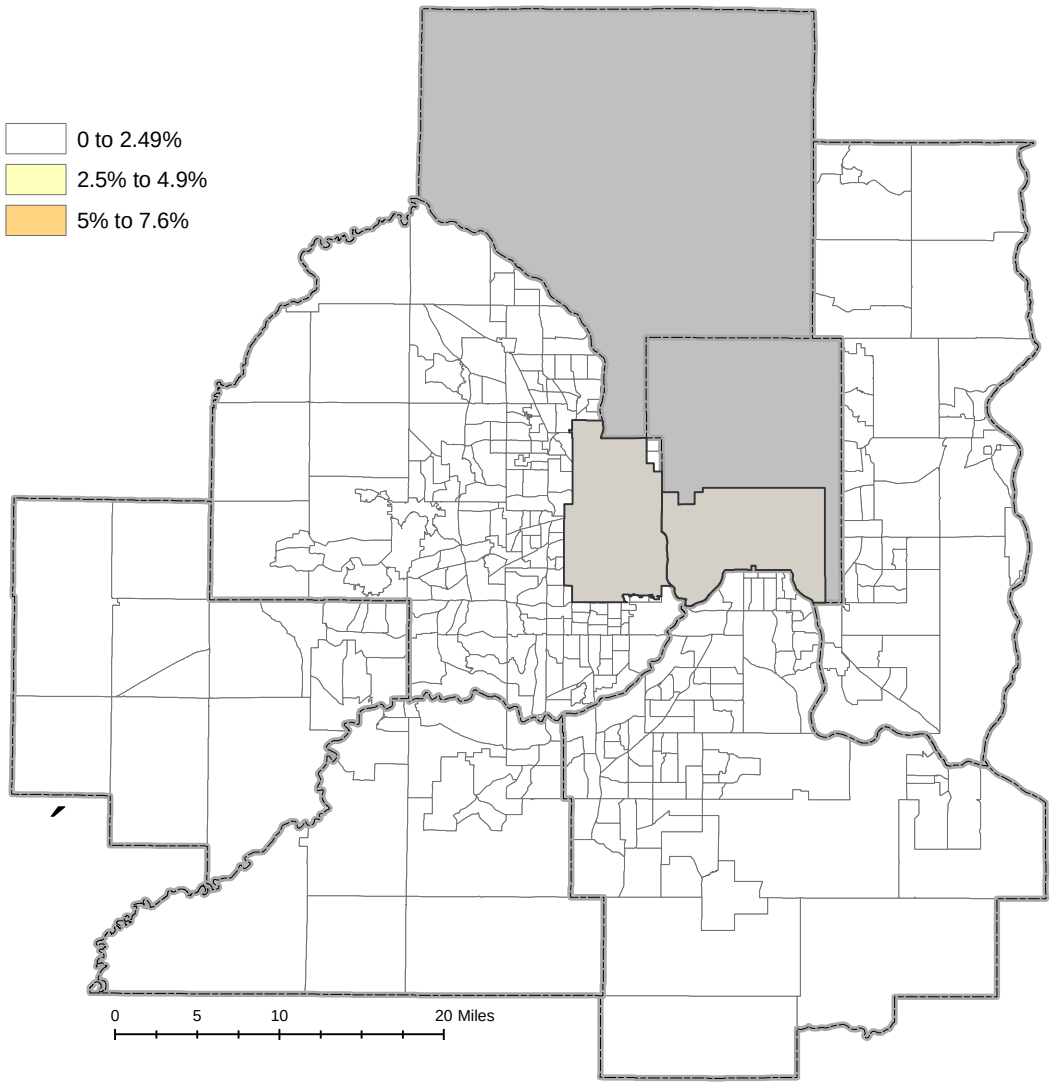
4/14/08

Metropolitan Council


Percent of Population Age 5 and Older
Spanish Spoken at Home and
Speak English Not Well or Not At All
by Census Tract, 2000
0 to 2.49%
2.5% to 4.9%
5% to 9.9%
10% to 14.9%
15% to 19.5%
0
5
10
20 Miles
Source: 2000 Census.
conley344
4/14/08
Metropolitan Council


Percent of Population Age 5 and Older
Asian and Pacific Island Languages Spoken at Home
and Speak English Not Well or Not At All
by Census Tract, 2000
0 to 2.49%
2.5% to 4.9%
5% to 9.3%
0
5
10
20 Miles
Source: 2000 Census.
conley346
4/14/08
Metropolitan Council

Percent of Population Age 5 and Older Other Non-English Languages Spoken at Home and Speak English Not Well or Not At All by Census Tract, 2000



Source: 2000 Census.

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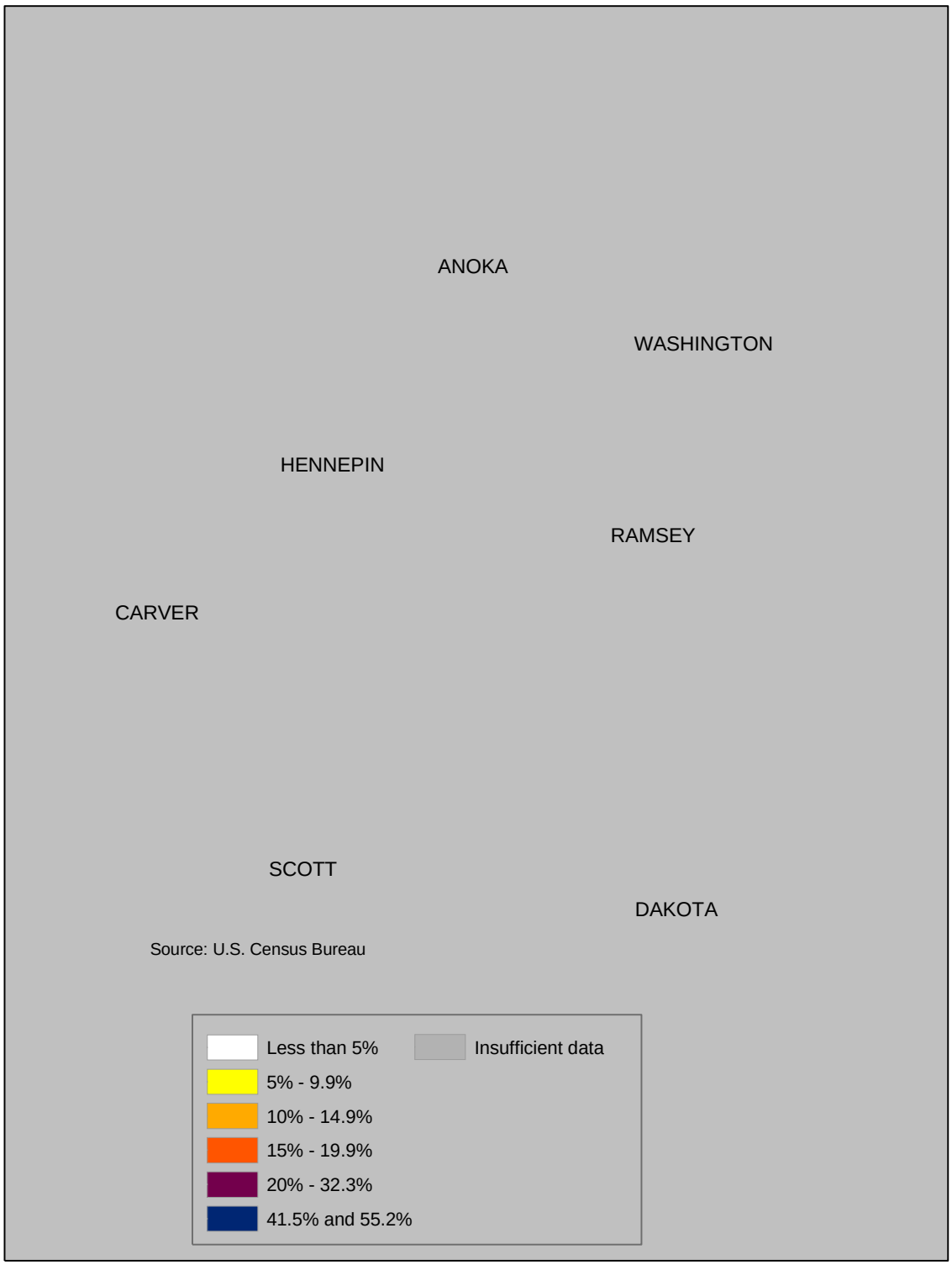
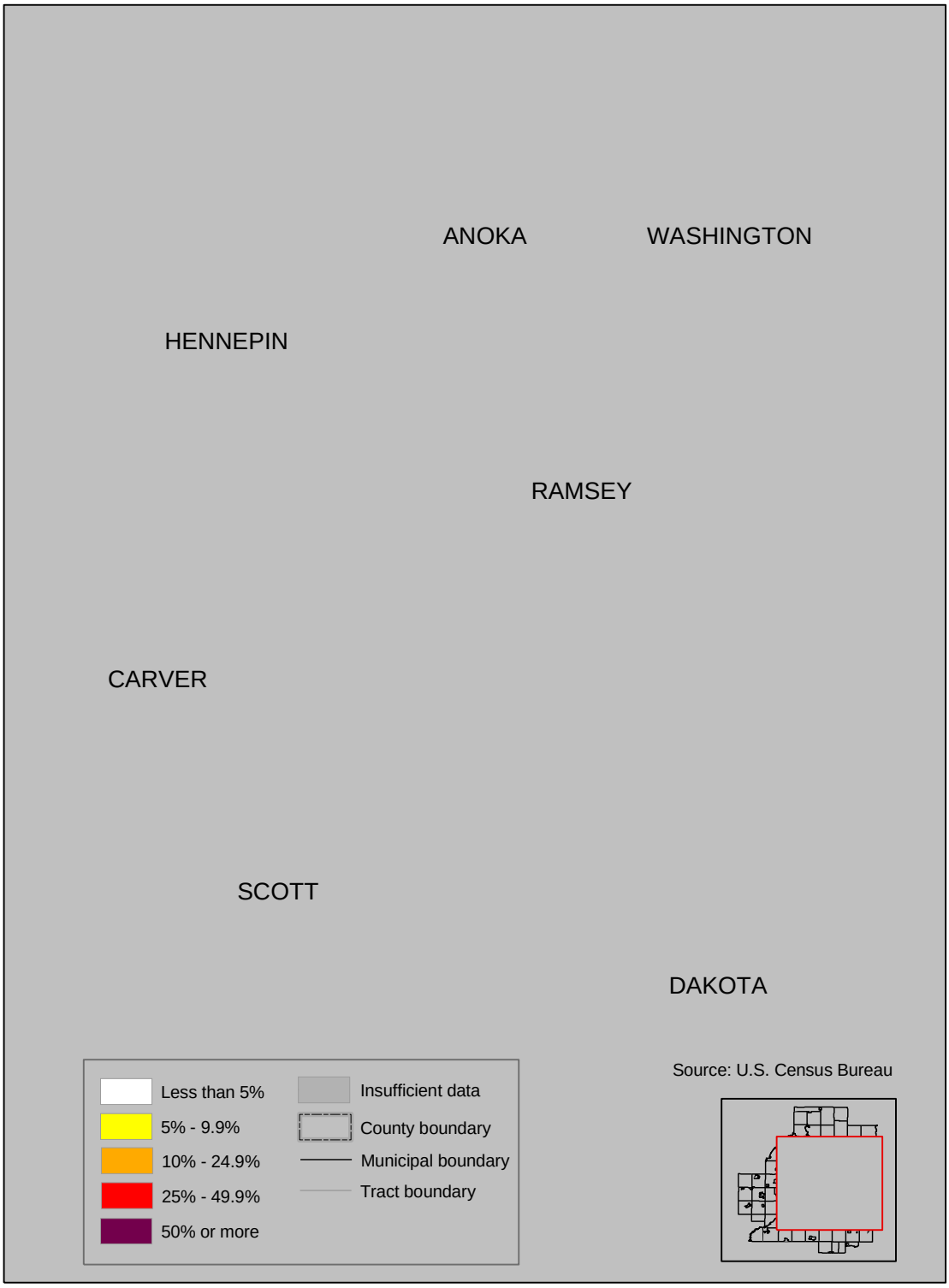
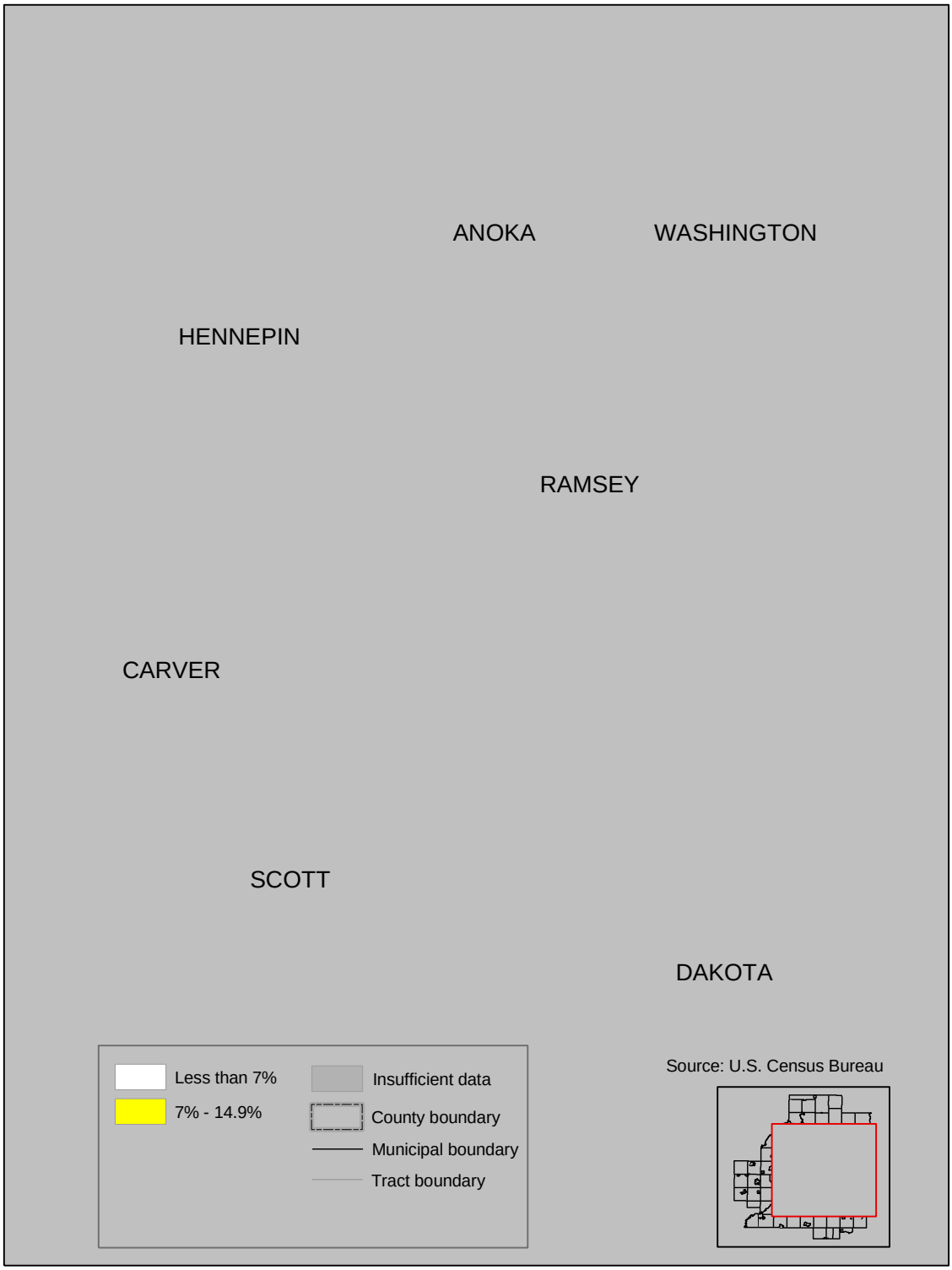
4/14/08

Metropolitan Council


ANOKA
WASHINGTON
HENNEPIN
RAMSEY
CARVER
SCOTT
DAKOTA
Source: U.S. Census Bureau
Less than 5%
5% - 9.9%
10% - 14.9%
15% - 19.9%
20% - 32.3%
41.5% and 55.2%
Insufficient data


ANOKA
WASHINGTON
HENNEPIN
RAMSEY
CARVER
SCOTT
DAKOTA
Less than 5%
5% - 9.9%
10% - 24.9%
25% - 49.9%
50% or more
Insufficient data
County boundary
Municipal boundary
Tract boundary
Source: U.S. Census Bureau


ANOKA
WASHINGTON
HENNEPIN
RAMSEY
CARVER
SCOTT
DAKOTA
Less than 7%
7% - 14.9%
Insufficient data
County boundary
Municipal boundary
Tract boundary
Source: U.S. Census Bureau

7 COUNTY REGIONS BY COUNTY BY AGE

QT-P1: Age Groups and Sex: 2000

Age	Number							
	Anoka County	Carver County	Dakota County	Hennepin County	Ramsey County	Scott County	Washington County	7-county total
Total population	298,084	70,205	355,904	1,116,200	511,035	89,498	201,130	2,642,056
Under 5 years	22,622	6,170	27,585	73,261	34,956	8,296	15,346	188,236
5 to 9 years	24,647	6,497	29,549	75,780	36,998	8,273	16,946	198,690
10 to 14 years	24,854	6,137	30,047	75,109	36,989	7,438	17,037	197,611
15 to 19 years	21,864	4,941	25,050	72,755	38,450	5,867	14,564	183,491
20 to 24 years	16,981	3,163	19,817	79,364	41,289	4,060	9,058	173,732
25 to 29 years	20,127	3,870	24,731	91,279	38,769	6,257	11,422	196,455
30 to 34 years	24,448	5,879	29,299	92,581	37,869	8,705	15,919	214,700
35 to 39 years	29,764	7,776	34,831	97,178	40,071	10,133	19,588	239,341
40 to 44 years	27,294	6,839	33,363	94,694	40,200	8,304	19,289	229,983
45 to 49 years	22,069	5,341	27,099	85,297	36,678	6,005	16,246	198,735
50 to 54 years	18,744	3,837	22,150	70,771	30,636	4,755	13,964	164,857
55 to 59 years	14,010	2,696	15,624	49,386	21,938	3,547	9,850	117,051
60 to 64 years	9,578	1,813	10,513	36,387	16,690	2,314	6,634	83,929
65 to 69 years	7,103	1,534	8,138	30,310	14,603	1,721	4,857	68,266
70 to 74 years	5,519	1,248	6,704	29,427	14,123	1,355	3,973	62,349
75 to 79 years	4,045	1,046	5,060	26,436	12,759	1,063	2,900	53,309
80 to 84 years	2,553	691	3,442	18,506	9,147	762	1,882	36,983
85 to 89 years	1,307	465	1,994	11,007	5,601	413	1,074	21,861
90 years and over	555	262	908	6,672	3,269	230	581	12,477
Under 18 years	86,217	22,080	103,862	267,502	130,684	27,964	59,225	697,534
18 to 64 years	190,785	42,879	225,796	726,340	320,849	55,990	126,638	1,689,277
18 to 24 years	24,751	4,828	28,186	108,767	57,998	5,970	13,726	244,226
25 to 44 years	101,633	24,364	122,224	375,732	156,909	33,399	66,218	880,479
25 to 34 years	44,575	9,749	54,030	183,860	76,638	14,962	27,341	411,155
35 to 44 years	57,058	14,615	68,194	191,872	80,271	18,437	38,877	469,324
45 to 64 years	64,401	13,687	75,386	241,841	105,942	16,621	46,694	564,572
45 to 54 years	40,813	9,178	49,249	156,068	67,314	10,760	30,210	363,592
55 to 64 years	23,588	4,509	26,137	85,773	38,628	5,861	16,484	200,980
65 years and over	21,082	5,246	26,246	122,358	59,502	5,544	15,267	255,245
65 to 74 years	12,622	2,782	14,842	59,737	28,726	3,076	8,830	130,615
75 to 84 years	6,598	1,737	8,502	44,942	21,906	1,825	4,782	90,292
85 years and over	1,862	727	2,902	17,679	8,870	643	1,655	34,338

	Anoka County	Carver County	Dakota County	Hennepin County	Ramsey County	Scott County	Washington County	7-county total
16 years and over	221,168	50,262	263,004	877,396	394,818	64,112	148,437	2,019,197
18 years and over	211,867	48,125	252,042	848,698	380,351	61,534	141,905	1,944,522
21 years and over	200,583	45,798	239,899	804,394	355,044	58,809	135,455	1,839,982
60 years and over	30,660	7,059	36,759	158,745	76,192	7,858	21,901	339,174
62 years and over	26,449	6,244	32,106	143,027	69,061	6,829	18,889	302,605
67 years and over	18,050	4,595	22,942	110,187	53,653	4,828	13,243	227,498
75 years and over	8,460	2,464	11,404	62,621	30,776	2,468	6,437	124,630

Data Set: Census 2000 Summary File 1 (SF 1) 100-Percent Data

APPENDIX 5: PASS THROUGH GRANT AGREEMENT

Contract No: SG -__-____

PASSTHROUGH GRANT AGREEMENT

BETWEEN

THE METROPOLITAN COUNCIL

AND

THE _____

FOR _____

(Direct 5307 Pass-through)

THIS AGREEMENT is made and entered into by and between the Metropolitan Council ("Council") and _____ ("Grantee"), each acting by and through its duly authorized officers.

WHEREAS:

1. The Federal Transit Administration has awarded grant number _____(under CFDA ____) to the Council from Title 49 United States Code Section 5307 funds to be used _____.

2. The Council desires to passthrough certain of such 5307 Funds to the Grantee in order to perform the project work.

3. The Council and the Grantee desire to agree on the procedures for the Grantee to receive such 5307 Funds provided to the Council by the Federal Transit Administration.

NOW, THEREFORE, the Council and the Grantee agree as follows:

I. GRANTEE PERFORMANCE OF GRANT PROJECT

1.01 Grant Project Activities. The Grantee agrees to perform and complete in a satisfactory and proper manner the activities specified in the Council's Application and Award for federal funds, Grant Number _____ which is attached to and incorporated into this agreement as Exhibit A. These activities are referred to in this agreement as the Grant Project and Grantee shall carry out the Grant Project in accordance with the terms and conditions of this agreement. After the effective date of this agreement, all proposed changes in the Grant Project activities must be submitted to the Council's Grant Manager for approval. Such changes are not effective until the Grantee receives approval for the changes in writing from the Council's Grant Manager. All Grant Project activities must be consistent with the approved Grant Project Activities described in this paragraph.

1.02 Use of Contractors. The Grantee may engage contractors to perform Grant Project activities. However, the Grantee retains primary responsibility to the Council for performance of the Grant Project and the use of such contractors does not relieve the Grantee from any of its obligations under this agreement.

If the Grantee engages any contractors to perform any part of the Grant Project activities, the Grantee agrees that the contract for such services shall include the following provisions. (Note: these requirements are in addition to other requirements for such contracts set forth in this agreement.)

a. the contractor must maintain all records and provide all reporting as required by this agreement;
b. the contractor must defend, indemnify, and save harmless the Council from all claims, suits, demands, damages, judgments, costs, interest, and expenses arising out of or by reason of the performance of the contracted work, caused in whole or in part by any negligent act or omission of the contractor, including negligent acts or omissions of its employees, subcontractors, or anyone for whose acts any of them may be liable;
c. the contractor must provide and maintain insurance in amounts and types of coverage appropriate to the contracted work and naming the Council as an additional insured, and provide to the Grantee prior to commencement of the contracted work a certificate of insurance evidencing such insurance coverage;
d. the contractor must be an independent contractor for the purposes of completing the contracted work; and
e. the contractor must acknowledge that the contract between the Grantee and the contractor does not create any contractual relationship between the Council and the contractor.

II. AUTHORIZED USE OF GRANT AND MATCHING FUNDS

2.01 Authorized Uses. The Grantee is authorized to use the grant and matching funds awarded under this agreement only for costs directly incurred for the Grant Project activities specified in paragraph 1.01 and only during the Project Activity Period specified in paragraph 6.01. Grant and matching funds may be used only for: (1) the allowable costs of the grantees, subgrantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and (2) reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or subgrantee. Allowable costs will be determined in accordance with Office of Management and Budget (OMB) Circular A-87. No other use of grant or matching funds is permitted.

III. GRANT AMOUNT, MATCH, AND DISTRIBUTION

3.01 Estimated Project Amount. The total estimated cost of the Grant Project identified in paragraph 1.01 is $_____, consisting of the Maximum Grant Amount and Grantee's required match as set forth below.

3.02 Maximum Grant Amount. The Council awards to the Grantee a grant of up to $_____ ("Maximum Grant Amount") for the Grant Project. However, in no event will the Council's obligation under this agreement exceed the lesser of:

a. the Maximum Grant Amount; or,
b. eighty percent (80%) of actual total Grant Project expenditures.

The Council shall bear no responsibility for cost overruns which may be incurred by the Grantee in performance of the Grant Project.

3.03 Grantee's Match. The Grantee has an obligation under this agreement to share in the costs of the Grant Project by providing at least a twenty percent (20%) local match from sources other than from Council funds, i.e., not less than $_____ against the Maximum Grant Amount. The eligibility and use of matching funds shall be governed by applicable federal law, regulations and guidance.

3.04 Distribution of Grant Funds. Grant funds will be distributed by the Council as follows:

a. The Grantee must submit invoices to request reimbursement of Grant Project expenditures on a calendar monthly basis, not later than twenty (20) calendar days after the end of each month. Each reimbursement request must include an itemization of all Grant Project expenditures during the invoice period and must be submitted in a format prescribed by the Council. Each reimbursement request must include the monthly report specified in paragraph 5.01. The Grantee shall submit any additional data and information requested by the Council to justify and support the Grantee's reimbursement request or as required by the federal government for reporting under to the FTA.

b. Upon review and approval of the reimbursement request, the Council will draw 80 percent of the invoice and distribute to the Grantee as required by the FTA. The 20 percent match portion is the responsibility of the Grantee. The Council may deny part or all of any reimbursement request if it believes that it is not warranted or justified.

c. No reimbursement payment will be made which would cause distribution of grant funds to exceed, cumulatively through such payment, the limits in paragraph 3.02. The Council may withhold payment if the Grantee is not current in its reporting requirements under article V. Distribution of any funds or approval of any report is not to be construed as a Council waiver of any Grantee noncompliance with this agreement.

3.05 Repayment of Unauthorized Use of Grant Funds. Upon a finding by the Council that the Grantee has made an unauthorized or undocumented use of grant funds, and upon a demand for repayment issued by the Council, the Grantee agrees to promptly repay such amounts to the Council.

3.06 Reversion of Unexpended Grant Funds. All funds granted by the Council under this agreement that have not been expended for Grant Project activities taking place during the Project Activity Period shall revert to the Council.

3.07 Grant Contingent on Federal Funding. The Grantee acknowledges and agrees that the Council's payment of funds under this agreement is contingent on the Council receiving grant funds from the USDOT. If, for any reason, USDOT reduces the amount of the Council's grant, or otherwise fails to pay any part of the cost or expense of the Grant Project in this agreement, the Grantee agrees to pay those costs and

expenses. The Grantee and its contractors and subcontractors further agree to pay any and all lawful claims arising out of or incidental to the performance of the Grant Project covered by this agreement in the event that USDOT does not pay the same and, in all events, agree to hold the Council harmless from those claims and from any claims arising out of this agreement. Notwithstanding any other provisions of this agreement, in the event that the FTA rescinds funding for the Grant Project, the Council may immediately terminate this agreement by written notice to the Grantee.

IV. ACCOUNTING AND RECORDKEEPING REQUIREMENTS

4.01 Documentation of Project Costs. All costs charged to the Grant Project, whether paid with grant funds or charged as the Grantee's match, must be supported by proper documentation, including properly executed payrolls, time records, invoices, contracts, receipts for expenses, or vouchers, evidencing in detail the nature and propriety of the charges.

4.02 Establishment and Maintenance of Project Information. The Grantee agrees to establish and maintain accurate, detailed, and complete separate books, accounts, financial records, documentation, and other evidence relating to: i) Grantee's performance under this agreement, and ii) the receipt and expenditure of all grant funds and the Grantee's match under this agreement. These documents shall include the property records required by article VIII of this agreement. The Grantee shall establish and maintain all such project information in accordance with generally accepted accounting principles and practices and shall remain intact all such Grant Project information until the latest of:

a. complete performance of this agreement; or
b. six (6) years following the term of this agreement; or
c. if any litigation, claim, or audit is commenced during either such period, when all such litigation, claims or audits have been resolved.

If the Grantee engages any contractors to perform any part of the Grant Project activities, the Grantee agrees that the contract for such services shall include provisions requiring the contractor to establish and maintain project information in accordance with the provisions of this paragraph and to allow audit of such information in accordance with paragraph 4.03.

4.03 Audit. The accounts and records of the Grantee relating to the Grant Project shall be audited in the same manner as all other accounts and records of the Grantee are audited. During the time of maintenance of information under paragraph 4.02, authorized representatives of the Council, the Legislative Auditor and/or State Auditor in accordance with Minnesota Statutes, section 16C.05, subdivision 5, the United States Secretary of Transportation, the FTA Administrator, and the United States Comptroller General will have access to all such books, records, documents, accounting practices and procedures, and other information for the purpose of inspection, audit, and copying during normal business hours. The Grantee will provide proper facilities for such access and inspection.

V. REPORTING AND MONITORING REQUIREMENTS

5.01 Monthly, Quarterly and Annual Reports. Along with each monthly invoice, Grantee shall submit a calendar monthly report to the Council for review and

approval. Each monthly report shall include a detailed summary of completed Grant Project activities and expenditures for such month including the following information:

a. A description of work or progress covered by the invoice.

b. The total amount of reimbursement requested.

c. A breakdown of expenses by approved line item budget in a manner that reflects total approved amount, current amount requested, cumulative total requested to-date, and unexpended balance by line item.

d. Certification by an authorized Grantee representative that the invoice has been reviewed, that the costs have been properly incurred and used solely for the purposes of the work described in this Agreement, and that the amount charged is correct and in accordance with the terms of this Agreement.

e. A DBE Project/Progress Reports and narrative.

f. Other information as deemed necessary for completion of required reports.

Grantee shall submit a calendar quarterly report to the Council for review and approval. The quarterly report shall be a compilation of the information provided in the monthly reports for that calendar quarter. The calendar quarterly report is due within fifteen (15) days after the end of each calendar quarter.

Grantee shall submit a calendar year report to the Council for review and approval. The annual report shall be a compilation of the information provided in the monthly reports for that calendar year. The calendar year report is due by January 30 of the year following the end of the calendar year.

The Council will prescribe the format of such reports and the information to be provided in the reports in order to meet federal reporting requirements.

5.02 Final Report. Upon completion of the Grant Project and not later than thirty (30) calendar days after the end of the Project Activity Period, the Grantee must submit a final report for Council review and approval describing the activities and expenditures for the Grant Project and containing a final accounting of grant and matching expenditures. The final report must include a list of Grant Project property as required by article VIII of this agreement.

5.03 Content of Reports; Copies. The Grantee agrees to report completely and to provide the Council with any additional or follow-up information as may be requested by the Council. The Grantee agrees to provide copies of the reports specified in paragraphs 5.01 and 5.02 to organizations and individuals upon request during the term of this agreement.

5.04 Other Monitoring Activities. To assist the Council in monitoring compliance with this agreement, the Grantee agrees to attend Grantee meetings as requested by the Council and to permit site visits by Council staff, during business hours, upon reasonable notice. The Grantee agrees to submit to the Council a copy of any promotional information regarding the Grant Project disseminated by the Grantee during the term of this agreement.

5.05 Changed Conditions. The Grantee agrees to notify the Council immediately of any change in conditions, law, ordinance, or regulation, or any other event that may affect the Grantee's ability to perform the Grant Project in accordance with the terms of this agreement.

5.06 Special Reporting Requirements. The Council is required to report to the FTA regarding the Grant Project activities. Accordingly, the Grantee agrees to provide the Council with any additional or follow-up information reasonably requested by the Council, in order to meet the Council's FTA reporting requirements.

VI. PROJECT ACTIVITY PERIOD; TERM; TERMINATION

6.01 Project Activity Period. The Grantee agrees to complete all Grant Project activities during the period from _____ through _____ ("Project Activity Period"). Grant funds may not be used by Grantee to reimburse costs for any Grant Project activities taking place before the beginning or after the end of the Project Activity Period. Grant funds may be used by Grantee to reimburse costs for any Grant Project activities taking place before the effective date of this agreement but only if such activities occurred during the Project Activity Period.

6.02 Term. The term of this agreement shall extend from the effective date of this agreement to a date sixty (60) calendar days following the end of the Project Activity Period, to permit closeout of this agreement.

6.03 Termination by Council for Convenience. The Council may terminate this agreement at any time and for any reason by providing Grantee written notice of such termination at least thirty (30) calendar days prior to the effective date of such termination. Upon such termination Grantee shall be entitled to compensation for Grant Project activities in accordance with this agreement which were incurred prior to the effective date of the termination, but not exceeding the limits in paragraph 3.02.

6.04 Termination by Council for Noncompliance. If the Council finds that there has been a failure to comply with the provisions of this agreement, the Council may terminate the agreement at any time following seven (7) calendar days written notice to the Grantee and upon failure of the Grantee to cure the noncompliance within the seven-day period. Noncompliance includes failure to make reasonable progress toward completion of the Grant Project. At the Council's option, the Council may cease payment of invoices during any period in which the Grantee is not in compliance with this agreement. If the Council finds that the Grantee's noncompliance is willful and unreasonable, the Council may terminate or rescind this agreement and require the Grantee to repay the grant funds in full or in a portion determined by the Council. Nothing herein shall be construed so as to limit the Council's legal remedies to recover grant funds.

6.05 Effect of Project Closeout or Termination. The Grantee agrees that Grant Project closeout or termination of this agreement does not invalidate continuing obligations imposed on the Grantee by this agreement. Grant Project closeout or termination of this agreement does not alter the Council's authority to disallow costs and recover funds on the basis of a later audit or other review, and does not alter the

Grantee's obligation to return any funds due to the Council as a result of later refunds, corrections, or other transactions.

CONTACT PERSONS; GRANT MANAGER

7.01 Contact Persons. The authorized contact persons for receipt of notices, reports, invoices, and approvals under this agreement are the following:

COUNCIL: GRANTEE

or such other person as may be designated in writing for itself by either party.

7.02 Council's Grant Manager. The Council's Grant Manager for purposes of administration of this agreement is the contact person listed for the Council in paragraph 7.01, or such other person as may be designated in writing by the Council's Regional Administrator. However, nothing in this agreement will be deemed to authorize the Grant Manager to execute amendments to this agreement on behalf of the Council.

VII. GRANT PROPERTY

Title, acquisition, use, management, and disposition of all property acquired or constructed with grant funds under this agreement shall be governed by applicable federal law, rule, and guidance including, without limitation, the provisions of:

- 49 C.F.R. Parts 18.31, 18.32, and 18.33 (www.access.gpo.gov/nara/cfr/waisidx_98/49cfr18_98.html)
- *FTA Master Agreement* (www.fta.dot.gov/library/legal/agree.htm)
- *FTA Circular 5010.1C* (www.fta.dot.gov/library/policy/5010.1C/cover.htm)

The listed documents are incorporated by reference into this agreement. Copies of these documents are available at the internet websites indicated or, upon request by the Grantee, from the Council.

IX. GENERAL CONDITIONS

9.01 Amendments. The terms of this agreement may be changed only by mutual agreement of the parties. Such changes shall be effective only upon the execution of written amendments signed by authorized officers of the parties to this agreement.

9.02 Assignment Prohibited. Except as provided in paragraph 1.02, the Grantee shall not assign, subgrant, contract out, sublet, or transfer any Grant Project activities without receiving the express written consent of the Council. The Council may condition such consent on compliance by the Grantee with terms and conditions specified by the Council.

9.03 Indemnification. The Grantee assumes liability for and agrees to defend, indemnify and hold harmless the Council, its members, officers, employees and agents, from and against all losses, damages, expenses, liability, claims, suits, or demands including, without limitation, attorney's fees, arising out of, resulting from, or relating to the performance of the Grant Project by Grantee or Grantee's employees, agents, or subcontractors if caused in whole or in part by any negligent act or omission of the Grantee, including negligent acts or omissions of its employees, subcontractors, or anyone for whose acts any of them may be liable.

9.04 Grant Project Data. The Grantee agrees that the results of the Grant Project, the reports submitted, and any new information or technology that is developed with the assistance of this grant may not be copyrighted or patented by Grantee. The Grantee shall comply with the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, in administering data under this agreement.

9.05 Nondiscrimination. The Grantee agrees to comply with all applicable laws relating to nondiscrimination and affirmative action. In particular, the Grantee agrees not to discriminate against any employee, applicant for employment, or participant in this Grant Project because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability, sexual orientation, or age; and further agrees to take action to ensure that applicants and employees are treated equally with respect to all aspects of employment, including selection for training, rates of pay, and other forms of compensation. In undertaking the Grant Project activities, the Grantee agrees to comply with Minnesota Statutes, section 363.03, subdivision 4, regarding non-discrimination in the provision of public services.

9.06 Acknowledgment. The Grantee shall appropriately acknowledge the grant assistance made by the Council and the FTA under this agreement in any promotional materials, reports, and publications relating to the Grant Project.

9.07 Compliance with Law; Obtaining Permits, Licenses, and Authorizations. The Grantee agrees to conduct the Grant Project in compliance with all applicable provisions of federal, state, and local laws, ordinances, or regulations. The Grantee is responsible for obtaining and complying with all federal, state, or local permits, licenses, and authorizations necessary for performing the Grant Project.

9.08 Workers Compensation; Tax Withholding. The Grantee represents that it is compliance with the workers compensation coverage requirements of Minnesota Statutes, section 176.181, subdivision 2, and that it, and any of its contractors or material suppliers, if any, under this contract, are in compliance with the tax withholding on wages requirements of Minnesota Statutes, section 290.92.

9.09 Jurisdiction, Venue, and Applicable Law. Venue for all legal proceedings arising out of this agreement, or breach of this agreement, shall be in the state or federal court with competent jurisdiction in Ramsey County, Minnesota. All matters relating to the performance of this agreement shall be controlled by and determined in accordance with the laws of the State of Minnesota.

9.10 Non-Waiver of Municipal Immunity and Limits. Nothing in this agreement shall be construed to waive the municipal immunities or liability limits

provided in the Minnesota Municipal Tort Claims Act, Minnesota Statutes, Chapter 466, or other applicable state or federal law.

X. GENERAL FEDERAL REQUIREMENTS

10.01 Federal Requirements. This grant is funded in whole or in part by the United States Department of Transportation, Federal Transit Administration. The requirements in this article X are in addition to and, unless inconsistent and irreconcilable, do not supplant requirements found elsewhere in this agreement. If any requirement in this article is inconsistent with a provision found elsewhere in this agreement and is irreconcilable with such provision, the requirement in this article shall prevail.

10.02 Incorporation of Federal Grant. FTA Grant Number _____ has been incorporated into this agreement as Exhibit A. When performing work or expending funds for Grant Project activities, the Grantee agrees to comply with all applicable terms and conditions of said grant.

10.03 Incorporation of Specific Federal Requirements. Specifically, and without limitation, the Grantee agrees to comply with the federal requirements set forth in Exhibit B and agrees to require, unless specifically exempted, subrecipients (if authorized) and third party contractors at every tier to comply with the same.

10.04 Federal Certifications and Assurances; Execution and Incorporation. The Grantee agrees to comply with and to certify compliance with the federal *Fiscal Year 2004 Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements* attached to and incorporated into this agreement as Exhibit C. The Grantee must certify compliance with the applicable provisions by signing the appropriate certification(s) and returning the signed certification(s) as part of the execution of this agreement. During the term of this agreement, the Grantee shall annually execute the most current federal certifications and assurances document and provide the same to the Council.

10.05 Compliance with Federal Requirements; Incorporation of Specific Documents by Reference. The Grantee agrees to comply with all federal statutes, rules, FTA Circulars, Executive Orders, guidance, and other requirements which may be applicable to this grant. In particular, and without limitation, the Grantee agrees to comply with the terms and conditions of the following documents when performing work or expending funds for Grant Project activities:

- *FTA Master Agreement* (www.fta.dot.gov/library/legal/agree.htm)
- *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*, 49 CFR Part 18 (www.access.gpo.gov/nara/cfr/waisidx_98/49cfr18_98.html)
- *Grant Management Guidelines*, FTA Circular 5010.1C (www.fta.dot.gov/library/policy/5010.1C/cover.htm)

The listed documents are incorporated by reference into this agreement. Copies of these documents are available at the internet websites indicated or, upon request by the Grantee, from the Council.

10.06 Third Party Contracts. If the Grantee decides to fulfill any of its obligations or duties under this agreement through a third party contract to be paid for by funds received under this agreement, Grantee agrees to the following provisions. (Note: these requirements are in addition to other requirements for such contracts set forth in this agreement.)

a. **Compliance with Federal Procurement Requirements.** Grantee will comply with all applicable federal law, rules, and guidance relating to such procurement including, without limitation, the provisions of *Third Party Contracting Requirements*, FTA Circular 4220.1E (www.fta.dot.gov/library/policy/tpcrpc.htm), which document is incorporated by reference into this agreement. A copy of this document is available at the internet website indicated or, upon request by the Grantee, from the Council.

b. **Certification of Grantee's Procurement System.** Grantee certifies that its procurement system complies with the standards described in the previous paragraph.

c. **Council Approval of Contracts.** The Grantee shall not execute any third party contract or otherwise enter into a binding agreement until it has first received written approval from the Council's Grant Manager.

d. **Inclusion of Provisions in Lower Tier Contracts.** The Grantee agrees to include adequate provisions to ensure compliance with applicable federal requirements in each lower tier subcontract financed in whole or in part with financial assistance under this agreement including all applicable provisions of this agreement.

e. **Disadvantaged Business Enterprise Requirements.** For all work performed under this grant agreement, Grantee will comply with the Council's Disadvantaged Business Enterprise (DBE) Program. In particular, Grantee agrees to comply with the requirements of the Council's "Disadvantaged Business Enterprise (DBE) Pass Through Agreement and Program" document which is attached to and incorporated into this agreement as Exhibit D. For the purposes of Exhibit D, the following provisions shall apply:

- The Metropolitan Council DBE Liaison Officer, or designated staff, shall act as the Grantee DBE Liaison Officer for the purposes of this grant.
- Grantee agrees to submit to the Council for review, approval, and establishment of the appropriate DBE goal all procurements in excess of $50,000.
- Grantee will provide reports on a monthly basis to the Council on each above described procurement reflecting all invoices paid on these procurements and identifying all DBE activity on these procurements.
- Grantee will report DBE activity on a monthly basis to the Council on all other purchase orders and invoices not included above.
- Determination of DBE eligibility will be based on the list of DBE vendors provided by the Council.

10.07 Provisions Subject to Change. The Grantee acknowledges that federal requirements in this article X are subject to change and agrees that the most recent of these requirements shall govern this agreement at any particular time.

10.08 No Federal Obligation. This grant is financed by federal funds. However, payments to the Grantee will be made by the Council. The United States is not a party to this agreement and no reference in this agreement to the United States, USDOT, FTA, or any representatives of the federal government makes the United States a party to this agreement. The Grantee shall include this clause in any contracts or agreements under this agreement.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized officers on the dates set forth below. This agreement is effective upon final execution by, and delivery to, both parties.

GRANTEE

_____

Date _____

By

_____

Name

_____

Title

_____

METROPOLITAN COUNCIL

Date _____

By

_____

Regional Administrator

Approved as to form:

_____

Metropolitan Council
Office of General Counsel

LIST OF EXHIBITS

Exhibit	Description
A	FTA Grant Number _____
B	Specific Federal Clauses
C	Federal Fiscal Year 2004 Annual List of Certifications and Assurances
D	Disadvantaged Business Enterprise (DBE) Pass Through Agreement and Program

EXHIBIT A

FTA GRANT NUMBER _____

EXHIBIT B
SPECIFIC FEDERAL CLAUSES

EXHIBIT C

FEDERAL FISCAL YEAR 2003 ANNUAL LIST OF CERTIFICATIONS AND ASSURANCES FOR FEDERAL TRANSIT ADMINISTRATION GRANTS AND COOPERATIVE AGREEMENTS

EXHIBIT D
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PASS THROUGH AGREEMENT AND PROGRAM

REQUEST FOR PROPOSALS

for

Sample

Issue Date: 6/1/2008

Proposals due: 6/30/2008 **by 3:00** p.m. local time

Don Pleau
RFP Administrator
Metropolitan Council
515 N. Cleveland
St. Paul, MN 55114
Phone: (612) 349-5064
Fax: (612) 349-5069
don.pleau@metc.state.mn.us
TTY: (612) 349-7439

Metropolitan Council

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INSTRUCTIONS FOR PREPARATION OF PROPOSALS

1. Request for Proposals

In this Request for Proposals (RFP), the Metropolitan Council (Council) is soliciting proposals for the following services: Sample The specific services requested in this RFP are detailed in *Attachment to the Proposal Instructions: Scope of Work*.

Failure to follow these instructions and requirements may result in the rejection or disrating of your proposal. The Council is not responsible for any costs incurred by prospective proposers (Proposers) in the preparation and presentation of their proposals.

2. Council Rights

The Council reserves the right to cancel this RFP in writing or postpone the date and time for submitting proposals at any time prior to the proposal due date. No Proposer shall have a right to make a claim against the Council in the event the Council accepts a proposal or does not accept any or all proposals. The Council by this RFP does not promise to accept the lowest cost or any other proposal and specifically reserves the right to reject any or all proposals, to waive any or all informalities or irregularities in the proposals received, to investigate the qualifications and experience of any Proposer, to reject any provisions in any proposal, to modify RFP contents, to obtain new proposals, to negotiate the requested services and contract terms with any Proposer, or to proceed to do the work otherwise.

3. Project Time Frame

Project Milestones	**Tentative Completion Date**
Proposals Due	6/30/2008

Completion dates for the project milestones in this section are tentative only and are subject to modification by the Council.

4. Background

Created in 1967, the Council is the regional-level governmental unit for the seven-county Twin Cities area. The Council is responsible for guiding and coordinating development in the region through joint planning with local governments and the private sector, and it operates regional services – wastewater collection and treatment, transit and the Metro HRA, an affordable-housing service that provides assistance to lower-income families and individuals in the region.

The Council also establishes policies for airports, regional parks, highways and transit, sewers, air and water quality, land use and affordable housing, and provides planning and technical assistance to communities in the Twin Cities region.

The Council organizes its work around the following central themes:

- Balancing regional needs with local concerns
- Maximizing Council accountability

- Involving citizens in the fulfillment of the Council's mission
- Efficiently using current and future regional infrastructure, services and resources
- Operating quality services in an inclusive, customer-focused and efficient manner
- Encouraging innovation to improve services and programs

The Council's *Regional Development Framework* reflects these themes as the overall growth plan for the seven-county area. It provides for the orderly phasing of urban development in coordination with the staged extension of regional wastewater and transportation facilities. Under the *Framework*, the Council:

- Works with communities to accommodate growth efficiently and flexibly;
- Plans and invests in a multi-modal transportation system;
- Encourages expanded choices in housing locations and types; and
- Works with partners to protect and enhance vital natural resources.

Supporting the planned growth and redevelopment of the region are the Council's water management and transit services. The Council is responsible for water quality through its wastewater treatment operations and planning to reduce polluted runoff. As the principal transit provider in the region, the Council provides high-quality, cost-effective transit services, contributing significantly to the regional economy by providing access to job locations.

More information about the Council can be found at www.metrocouncil.org.

This RFP is being issued for Metro Transit, a division of the Council. The Metropolitan Council is the contracting authority.

5. RFP Administrator; Proposal Questions; Addenda

The RFP Administrator for this Request for Proposals is:

Name: Don Pleau
Phone: (612) 349-5064
Fax: (612) 349-5069
E-mail: don.pleau@metc.state.mn.us
TTY: (612) 349-7439

All questions regarding this RFP are to be directed only to the RFP Administrator. **Proposers may be disqualified if any unsolicited contact related to this RFP is made with an employee or representative of the Council other than the RFP Administrator during the proposal process.**

If any person contemplating submitting a proposal is in doubt as to the true meaning of any part of the Scope of Work, or other RFP documents, or finds discrepancies in or omissions from the specifications, the person may submit to the RFP Administrator a written request for an interpretation or correction by 6/14/2008. **Only written requests will be accepted.** The person submitting the request will be responsible for its prompt delivery. Legible fax transmissions of written requests and e-mailed questions are acceptable. If the RFP Administrator elects to answer any questions, all RFP recipients will receive a written response.

Any corrections or changes to this RFP will be made by written addendum only and will be distributed to all known recipients of the RFP document at the address provided by the recipient.

6. Proposal Format

A. Proposals must be submitted on 8-1/2" x 11" size paper and should be typed. **One (1) original(s) and six (6) photocopies of the proposal are required.** The Council encourages the use of recycled paper for proposals.
B. All proposals must be clearly marked "Sample" as well as include the name and address of the Proposer.
C. Acknowledgment of receipt, by number, of each RFP addendum, if any, must be included with the proposal.

7. Submission of Proposals

All proposals must be addressed as follows:

Don Pleau
Metropolitan Council Metro Transit
Proposal for "Sample" enclosed
515 N. Cleveland
St. Paul, Minnesota 55114

Proposals must be **physically delivered** to the offices of the Council, at the above address by the date and time indicated in section 3. Proposals received after the specified time and date may not be considered, at the Council's discretion.

If proposals are sent by U.S. mail or other courier service, it is wholly the responsibility of the Proposer to ensure that the proposal package is properly addressed and physically delivered on time.

The submission of a proposal shall constitute an acknowledgment upon which the Council may rely that the Proposer has thoroughly examined and is familiar with the RFP, the attachments (including the Scope of Work and the Sample Contract), the addenda (if any), and work sites as applicable, and has reviewed and inspected all applicable statutes, regulations, ordinances and resolutions dealing with or related to the services to be provided. The failure or neglect of a Proposer to do so shall in no way relieve the Proposer from any obligations with respect to the proposal or the contract issued as a result of this RFP. No claim for additional compensation will be allowed which is based upon a lack of knowledge of any aspect of the RFP, attachments (including the Scope of Work), addenda (if any), work sites, statutes, regulations, ordinances or resolutions.

8. Items Required to be Submitted with the Proposal

Items listed in this section must accompany your proposal. If any required item is omitted, the proposal may be rejected and returned without further consideration. See the referenced sections for additional details on some requirements.

- A statement of qualifications and relevant firm experience.
- A detailed work plan addressing each of the tasks in the Scope of Work.

- A detailed price proposal executed by an officer of the proposing firm. **Important note: cost and pricing information <u>must</u> be submitted in a separate, sealed and marked envelope.**
- If the amount of the proposal exceeds $100,000, **either:** 1) a currently-effective Affirmative Action Certificate of Compliance, **or** 2) Affirmative Action Certification Statement (section 17)
- Subcontractor Information Form (section 18)
- If the amount of the proposal exceeds $25,000, a Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (section 19)
- If the amount of the proposal is equal to, or exceeds $100,000, a Lobbying Restriction Certification (section 20)
- Disadvantaged Business Enterprise Information and Certifications (section 21)

9. [Reserved - this section is unused in this RFP.]

10. Withdrawal or Modification of Proposals

Each proposal shall constitute a binding, irrevocable offer for a period of 60 days after the date the proposals are due. Proposals which have been submitted to the Council may be withdrawn by the Proposer only if a written withdrawal request is **physically received** by the RFP Administrator in person, by mail, or by facsimile prior to the time proposals are due. Proposals which are timely withdrawn shall be returned to the Proposer unopened.

A Proposer may submit a modified proposal prior to the time proposals are due. A modified proposal must be **physically received** by the RFP Administrator prior to the time proposals are due. If a modified proposal is timely submitted, the Council shall deem a previous proposal submitted by the Proposer to have been withdrawn and the previous proposal shall be returned to the Proposer unopened.

11. Proposal Evaluation Criteria; Contract Award

Proposals will be evaluated by an Evaluation Panel to assess the Proposer's likelihood of successfully accomplishing the prospective project.

The Evaluation Panel will consider all the material submitted by the Proposer and other information the Evaluation Panel may obtain to determine whether the Proposer is capable of and has a history of successfully completing projects of this type including, without limitation, additional information the Evaluation Panel may request, interviews or oral presentations.

Proposals will be evaluated on the basis of the following criteria.

Ranking	Evaluation Criteria
1	The **quality** of the proposal including, without limitation, its completeness in addressing the requirements of this RFP and Scope of Work, the work plan and schedule submitted as a part of the proposal, and demonstrated grasp of the work required for this project.
2	The **qualifications** of the proposer including, without limitation, general qualifications, specialized qualifications and professional competence in areas directly related to this RFP, and successful completion of similar projects.
3	The **experience** of the Proposer on similar projects with the Council or with others including, without limitation, any references provided by the Proposer.

The Evaluation Panel will review, analyze, and evaluate all proposals based on the Evaluation Criteria.

If required by Council procedures, the Evaluation Panel will determine and recommend to the Council through the appropriate committee which proposal, in its opinion, represents the most advantageous offer to the Council. The committee will review the findings and recommendations of the Evaluation Panel, and forward them along with any of its own comments, findings and recommendations to the Council for action. The Council may make its own findings and determinations.

A determination will be made as to which proposal, if any, is **most advantageous to the Council**, by considering the evaluations of the proposals, the best value to the Council, and the best interests of the Council.

If a proposal is accepted and award is authorized, in accordance with the Council's policies and procedures, a contract for the work will be executed. Until authorization of the award and execution of the contract, the Council has no obligation for the cost associated with any work performed.

12. [Reserved - this section is unused in this RFP.]

13. Protests

Proposers who wish to file a protest regarding the RFP process shall conform in all respects to the Council's Protest Procedure. (*See Attachment to the Proposal Instructions: Protests for Procurements $25,000 and Over*.) All protests must be addressed to the RFP Administrator at the address indicated in section 5.

14. Data Practices Act

The Minnesota Government Data Practices Act provides that the names of proposers are public once the proposals are opened. With the exception of trade secret information as defined in Minnesota Statutes, section 13.37, all other information submitted by a Proposer in response to this RFP becomes public at the times specified in the act and is then available to any person upon request. Trade secret information is defined in section 13.37 as data, including a formula, pattern, compilation, program, device, method, technique, or process, (l) that was supplied by the Proposer; (2) that is the subject of efforts by the Proposer that are reasonable under the circumstances to maintain its secrecy; and (3) that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by

proper means by, other persons who can obtain economic value from its disclosure or use.

Any information in its response to this RFP for which the Proposer claims protection as trade secret information in accordance with the above provisions must be limited and set apart in the RFP response on separate pages, with a heading that identifies the information as trade secret information. The Council will make the ultimate determination whether the information meets the applicable definition. Any information submitted in response to this RFP which does not meet the legal definition will be considered public information, regardless of the Proposer's identification of it as trade secret information. **Proposers are advised that blanket-type identification by designating whole pages or sections as containing trade secret information will not assure protection --- the specific information for which the Proposer claims trade secret protection must be clearly identified as such.**

Submitted proposals shall <u>not</u> be copyrighted. A statement by the Proposer that submitted information is copyrighted or otherwise protected does not prevent public access to the information contained in the RFP response.

15. Form of Contract

A copy of the standard Council contract for architectural and engineering services is attached to this RFP as *Attachment to the Proposal Instructions: Sample Architectural and Engineering Service Contract*. The standard contract outlines various legal and administrative duties and responsibilities assumed by persons or organizations contracting with the Council. The successful Proposer will be expected to execute this contract.

16. Incorporation of Affirmative Action Requirements

If a contract based upon this RFP or any modification of the contract exceeds a value of $100,000, the provisions of Minnesota Statutes, section 473.144, and Minnesota Rules, parts 5000.3400 to 5000.3600 will be incorporated into said contract or modification. The referenced provisions relate to contractor requirements for affirmative action plans for minority individuals, women, and disabled individuals. Copies of the referenced provisions are available upon request from the RFP Administrator. Copies may also be accessed at the following internet web sites:

Minnesota Statutes, section 473.144:
www.revisor.leg.state.mn.us/stats/473/144.html

Minnesota Rules, parts 5000.3400 -.3600:
www.revisor.leg.state.mn.us/arule/5000/

17. Certificate of Compliance for Public Contracts

The provisions of this section 17 apply only if the amount of the proposal exceeds $100,000.

Under the provisions of Minnesota Statutes section 473.144, the Council may not accept a bid or proposal for over $100,000 from any business having more than forty (40) full-time employees in Minnesota on a single working day during the previous twelve (12) months, unless that business has submitted an affirmative action plan to the

Minnesota Commissioner of Human Rights for approval. The Council may not execute a contract for over $100,000 with any business having more than forty (40) full-time employees in Minnesota on a single working day during the previous twelve (12) months, unless that business has an approved affirmative action plan, evidenced by a Certificate of Compliance from the Minnesota Department of Human Rights. A certificate is valid for 2 years. In addition, for any business which did not have more than forty (40) full-time employees in Minnesota, but which had more than forty (40) full-time employees on a single working day during the previous twelve (12) months in the state in which it has its primary place of business, the Council may not execute a contract with such a business unless the business has an approved affirmative action plan, evidenced by a Certificate of Compliance from the Minnesota Department of Human Rights, or the business certifies to the Council that the business is in compliance with federal affirmative action requirements.

To ensure compliance with this statute, Proposers must submit with their proposal **EITHER**:

A. a copy of the Proposer's currently effective affirmative action Certificate of Compliance issued by the Minnesota Department of Human Rights; **OR**

B. an Affirmative Action Certification Statement (see *Attachment to the Proposal Instructions: Affirmative Action Certification Statement*) with information which indicates that the Council can accept the Proposer's proposal.

Failure to submit one of these documents along with the proposal will result in the proposal being rejected and returned to the Proposer without further consideration. Proposers are advised that the Council may verify representations made by a Proposer in any Affirmative Action Certification Statement which is submitted.

If a Proposer submits an Affirmative Action Plan for approval of the Minnesota Commissioner of Human Rights in order to qualify for acceptance of its proposal by the Council and becomes the selected vendor, the Council will not execute the contract for services until the Proposer has actually been issued a Certificate of Compliance from the Minnesota Department of Human Rights. The Council is under no obligation to delay the award and execution of a contract until a Proposer has completed the human rights certification process. It is the sole responsibility of a Proposer to apply for and obtain a human rights certificate prior to contract award and execution.

18. Subcontracting

(FTA Funding)

Proposers may subcontract for functions to fulfill the obligations of their proposal. All Proposers MUST complete and include the attached **Subcontractor Information Form** with their proposal, even if no subcontractors are proposed to be used on this project. Proposers must indicate on the form either:

1) that no subcontractors will be used on this project; or
2) the name, address, and telephone number of a) each subcontractor proposed to be used on the project AND b) each subcontractor who submitted a bid or quote for the project but was not selected by the Proposer.

Proposers must also complete and execute the certification on page two of the form. (See *Attachment to the Proposal Instructions: Subcontractor Information Form*)

19. Certification of Non-Debarment
(FTA or PFA Funding)

The provisions of this section 19 apply only if the amount of the proposal exceeds $25,000.

Proposers must sign and submit with their proposals the Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion attached to this RFP.

20. Lobbying Restriction Certification
(FTA or PFA Funding)

The provisions of this section 20 apply only if the amount of the proposal is equal to, or exceeds $100,000.

The Proposer must comply with the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352(b)(5), and 49 CFR part 20, which provide restrictions on lobbying with federally-appropriated funds and impose disclosure requirements for lobbying with non-federal funds. The Lobbying Restriction Certification attached to this RFP must be completed and submitted with proposals equal to or exceeding $100,000. The certification and disclosures are material representations of fact upon which the Council will rely in awarding the contract. Upon award of any subcontracts or supply contracts equal to or exceeding $100,000 under the contract, the successful proposer will be required to obtain the same certification from its subcontractors and suppliers and forward the certification and any disclosures to the Council.

21. Disadvantaged Business Enterprise Requirements
(FTA Funding with DBE Goal)

A. General Requirement. This contract is funded in part with a grant from the Federal Transit Administration (FTA). The Disadvantaged Business Enterprise (DBE) requirements of the Transportation Equity Act for the 21st Century (TEA-21) and 49 CFR part 26 apply to the contract for this Project. Under 49 CFR section 26.51, the Council has established a goal of **17%%** DBE participation for this contract.

Proposers are advised that award of this contract is conditioned on meeting the requirements of 49 CFR section 26.53, requiring Proposers to make good faith efforts to meet the contract goal. Proposers are required to demonstrate good faith efforts to meet the goal by either:

1) documenting the participation of specific DBEs to meet the goal, or
2) documenting adequate good faith efforts to meet the goal, even if the efforts were not successful in obtaining sufficient DBE participation to meet the goal.

B. Proposal Submittal Requirements. All proposals MUST include a properly completed **Disadvantaged Business Enterprise Information and Certifications** form (see *Attachment to the Proposal Instructions: Disadvantaged Business Enterprise Information and Certifications*). This form consists of Parts A and B. Part A must be completed by every Proposer. Part B must be completed by the Proposer if required in accordance with the following instructions.

In Part A of the form, the Proposer must list all firms, if any, whose participation is proposed to be credited toward meeting the DBE goal. All DBE firms which are listed must, as of the date proposals are due under this RFP, be:

1) certified by the Council as a DBE; or

2) certified by any other United States Department of Transportation (USDOT) recipient and then certified by the Council within 30 days of the execution of the contract; or

3) included on the **Metropolitan Airports Commission (MAC)/Minnesota Department of Transportation (MnDOT)/Metropolitan Council Disadvantaged Business Enterprise (DBE) Directory**. All of the firms on this listing shall be considered "currently certified" for the purposes of proposal submittal. This listing is available from the Council and can also be found at the following web site:

   http://www.dot.state.mn.us/eeocm/ucpdirectory.html

   The provisions of 49 C.F.R., part 26.87 (relating to removal of a DBE's eligibility) apply to all firms credited under this paragraph.

If no DBE participation is proposed, the Proposer must indicate so on the form. Part A of the form includes a "Certification of DBE Participation and Good Faith Efforts," which must be filled in and signed on behalf of the Proposer in all cases.

Part B of the form must be completed by the Proposer if the information provided in Part A of the form indicates either:

1) no proposed DBE participation, or

2) proposed DBE participation at less than the DBE goal established above.

In Part B, the Proposer must provide information regarding its good faith efforts to meet the DBE goal. Part B also includes a certification which must be filled in and signed on behalf of the Proposer if completion of Part B is required.

Failure to submit a properly completed **Disadvantaged Business Enterprise Information and Certifications** form with the proposal will result in no further consideration of the proposal by the Council.

C. Post-submittal Requirements. After the opening of proposals but before award of the contract, the Council will notify one or more Proposers that they are being considered for award. Each Proposer so notified must, within 7 days from receipt of the notice, meet the following additional requirements:

1. The Proposer must submit written confirmation from each DBE listed in Part A of the Proposer's **Disadvantaged Business Enterprise Information and Certifications** form confirming the DBE participation in the project.

2. The Proposer must submit any clarifications or details requested by the COUNCIL regarding: a) its efforts to obtain DBE participation prior to submittal of its Proposal, and/or b) the good faith efforts information submitted with the Proposal.

D. Evaluation of Good Faith Efforts. The Proposer must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirements of 49 CFR part 26 which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if it was not fully successful.

The Council's DBE Liaison Officer will determine whether a Proposer made sufficient good faith efforts to meet the goal in accordance with the guidelines set forth in 49 CFR section 26.53, and Appendix A thereto. If the Council's DBE Liaison Officer determines that the apparent successful Proposer has failed to meet the Good Faith Efforts requirements of the DBE program, the Council's DBE Liaison Officer will, before contract award, provide the Proposer an opportunity for administrative reconsideration. The Proposer will have the opportunity to:

1. provide written documentation or argument concerning the issue of whether the Proposer met the goal or made adequate good faith efforts to do so; and

2. meet in person with the Council's reconsideration official to discuss the issue of whether the Proposer met the goal or made adequate good faith efforts to do so.

The Council will send the Proposer a written decision on its reconsideration explaining the basis on which the determination was made whether the Proposer met the goal or made adequate good faith efforts to do so. In accordance with 49 CFR section 26.53, the result of the Council's reconsideration process is not subject to administrative appeal to the USDOT or the FTA.

Determinations and reconsiderations regarding failure to meet DBE requirements for this contract are handled in accordance with the provisions of this section and are not subject to the protest procedures in section 13 of the Proposal Instructions.

List of Attachments to Proposal Instructions

Attachment #	Contract # 12345 Document Title (FTA with DBE Goal)	Proposal Instructions Section Reference
1	Scope of Work	1
2	Protests for Procurement $25,000 and Over	13
3	Sample Architectural and Engineering Services Contract	15
4	Affirmative Action Certification Statement	17
5	Subcontractor Information Form	18
6	Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion	19
7	Lobbying Restriction Certification	20
8	Disadvantaged Business Enterprise Information and Certifications	21

Attachment to the Proposal Instructions:

Scope of Work

(see Proposal Instructions, section 1, for further information)

Contract # 12345 **Project Name:** Sample

Policy **Attachment to the Proposal Instructions:**

Protests for Procurements $25,000 and Over

(see Proposal Instructions, section 13, for further information)

Issued By:	**Contracts & Materials**	Document No:	30.06.02
Approved By:	**Regional Administrator**	Total Pages:	**4**
Effective Date:	**09/01/97**	Revision No:	**1**

The Metropolitan Council strives to ensure fairness to every offeror for all goods and services procured through the established competitive processes. The Council acknowledges its responsibility to promptly and fairly investigate procurement protests that conform to the requirements of this procedure. The Council also acknowledges the interest of the public in resolving unjustified claims without unduly delaying needed procurements. To balance the interests of offerors and the public, these procedures require that offerors file protests in a timely manner, carefully document their allegations, and conform their protests to all requirements contained herein.

Offerors are encouraged to resolve questions or disputes informally before pursuing a written protest. If offerors believe they will be filing a protest, they are encouraged to advise the Council verbally as soon as possible in order to maximize the offeror's options.

Written protests will be reviewed by designated staff, and a written protest decision will be issued. Protesters may request a single reconsideration of the protest decision. The decision of the designated protest authority is final. The Council will not consider nor respond to oral protests.

Purpose

This procedure provides a process for a full and fair consideration of all claims that raise legitimate questions about the procurement process without allowing proposers to exploit protest procedures to obtain a competitive advantage or obstruct needed procurements. The requirements of this procedure serve important public purposes and offerors are cautioned that noncompliance will result in waiver of protest rights. Offerors must review the Council procurement protest procedure carefully before filing a protest. At the time of filing a protest, the offeror agrees to be bound by this procedure.

Applicability

This policy is applicable to all protests arising from Council procurements $25,000 and over. Note that violations of federal law or regulation will be handled by the complaint process as stated

within that law or regulation.

If this procurement is funded in whole or in part by the Federal Transit Administration (FTA), offerors are hereby notified that a protester must exhaust all administrative remedies with the Council before pursuing a protest with FTA. Reviews of protests by FTA will be limited to:

the Council's failure to have or follow its protest procedures, or its failure to review a complaint or protest; or

violations of Federal law or regulation.

An appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the protester learned or should have learned of an adverse decision by the COUNCIL or other basis of appeal to FTA.

Definitions

For the purposes of this document:

a) A protest is an offeror's remedy for correcting a perceived wrong in the procurement process.
b) Working days are office business days for Metropolitan Council Regional Administration staff.
c) A solicitation phase protest is received prior to the proposal opening or the proposal due date.
d) An award phase protest is a protest received after the bid opening or proposal due date.
e) The protest authority is the employee assigned to review the individual protest decision. Please refer to the table on page 4.
f) The offeror is the bidder or proposer responding to a solicitation request.

Procedure

Protests must be filed and processed according to the methods and timetables outlined below.

Responsible Party	**Required Actions**
Protester	1. Files written protest with the Metropolitan Council contact person designated in the solicitation document. a) Offerors are cautioned that the Council may choose to continue with the given procurement, based on business needs. b) Protests may be filed on the following bases: • Offerors or parties who may have an interest in the potential outcome of a protest or a procurement decision may file a solicitation phase protest if a bid or proposal specification or condition is incorrect or inappropriate; or • Offerors may file an award phase protest if the purchase was awarded inappropriately or unfairly.

- A reconsideration of a protest decision may be requested after a decision has been rendered only if data becomes available that was not previously known or if there has been an error of law or regulation.
- All protests must be in writing. The Council will not respond to verbal protests.

c) The protest must specify the following:
- The protester's name, the protester's company name, address, and phone and fax numbers.
- The project name and number and the contract number or other solicitation identifier.
- A complete and accurate identification of the grounds for protest, including references to any and all laws, regulations, or other legal authority that the protester claims were violated.
- A presentation of any and all evidence known to support any allegations of protest including but not limited to the names of the persons involved, a description of relevant occurrences, the documents upon which the protester relied, the particular language in the solicitation documents which is alleged to be defective or illegal, and a description of the Proposer's material, component, or product which is adversely affected by allegedly defective or illegal language.
- Complete identification of the relief the protester is seeking.

d) Protest Filing Deadlines
- Solicitation phase protests must be filed no later than three (3) working days prior to the scheduled bid opening or the proposal due date.
- Award phase protests must be filed within five (5) working days of Council action, for those items which by policy require Council action, or within five (5) days of the award for those items not requiring Council action.
- Requests for reconsideration must be filed within five days of the protest decision.
- Failure to file a protest within the time period indicated shall result in waiver of the protest.

Designated Contact Person

2. Reviews the protest and:

a) Reports the protest filing to the General Manager or Division Director and the Office of General Counsel, and

b) If the protest is a Solicitation Phase Protest, determines if the scheduled bid opening date/proposal due date should be extended to allow for resolution of the protest and, if so, issues an addendum to all offerors.

c) Notifies funding authorities (such as the FTA) as required by rule or regulation.

d) Decide if the protest has an impact on other offerors. If the protest does have an impact on other offerors, notify them.

Protest Authority

3. Render a written decision that addresses, in detail, each substantive issue raised in the protest. The decision must be issued and appropriate action must be taken as quickly as possible but no later than ten (10) working days after the filing of the protest.

Department	Protest Authority
Environmental Services	General Manager
Metro Mobility	Director of Transportation Planning
Metro Transit	General Manager
Community Development	Division Director
All other	Regional Administrator

Protester

4. If the protester feels the protest decision is not valid, based on new information not previously known or an error of law or regulation, s/he may seek reconsideration within 5 working days through a written request filed with the protest authority.

Protest Authority

5. Reconsideration of a protest decision:
   a) Determine if the grounds for reconsideration are valid.
   b) If the grounds are deemed valid, render a decision.
   c) If the grounds are deemed invalid, reject the reconsideration request.

Protest Authority or Designee

6. Convey the final decision to protester and to other agencies, as required.

Records

Retention

All protest-related documents must be retained for ten (10) years.

Questions

Questions regarding this policy may be directed to the Purchasing Manager/Contracts and Procurement Unit Manager.

Deviations

In appropriate circumstances, the protest authority may extend the stated deadlines. No other deviations are allowed.

Attachment to the Proposal Instructions:

Sample Architectural and Engineering Services Contract

(See Proposal Instructions, section 15, for further information)

Contract # 12345 Project Name: Sample

Contract No.: 12345

METROPOLITAN COUNCIL
390 NORTH ROBERT STREET
SAINT PAUL, MINNESOTA 55101

THIS CONTRACT is entered into between the **Metropolitan Council**, a Minnesota political subdivision ("the COUNCIL"), and _____, a business authorized to do business in Minnesota, with its regular place of business at _____ ("the CONSULTANT").

WHEREAS, the COUNCIL requires the services described in Exhibit A to this contract; and

WHEREAS, the COUNCIL has issued a Request for Proposals, dated 6/1/2008 for the services, and

WHEREAS, the CONSULTANT submitted a proposal dated _____ to perform such services; and

WHEREAS, the COUNCIL has reviewed the CONSULTANT's proposal and, in reliance on the representations made, has awarded the contract to the CONSULTANT.

NOW, THEREFORE, in consideration of the mutual promises contained in this contract, the parties agree as follows:

Sample

I. SCOPE OF WORK

1.01 Scope of Services. This Contract is for the CONSULTANT to provide Architectural and/or Engineering services in connection with the following COUNCIL project: Sample Specifically, the CONSULTANT shall provide the services described in Exhibit A to this Contract, which is attached and made a part of this Contract. If there is any conflict between the terms and conditions of this Contract, the services specified in the exhibit, and the CONSULTANT's proposal, the terms and conditions of this Contract shall govern.

1.02 CONSULTANT Representations. CONSULTANT represents that it is experienced in matters relating to the services described in this Contract, is capable of performing them, and that the officer or officers executing this Contract are authorized to do so.

1.03 Definitions. For the purposes of this Contract the terms defined in this section shall have the following meanings unless otherwise provided or indicated by the context:

1. "Work" shall mean all authorized services to be provided by the CONSULTANT under this Contract.

2. "Deliverables" shall mean the studies, reports, sketches, drawings, maps, models, photographs, audio/video tapes, computer programs/models, electronic media, specifications, cost estimates, field data, test data, and other tangible documents identified in the attached exhibits to be provided by the CONSULTANT under this Contract, and as identified in a written notice relating to the Work.

II. COUNCIL'S RESPONSIBILITIES

In addition to other responsibilities of the COUNCIL as set forth in this Contract, COUNCIL shall:

1. Provide full information as to the requirements for the Work.
2. Assist the CONSULTANT by placing at the CONSULTANT 's disposal, information in possession of the COUNCIL which it believes is pertinent to the Work, and the CONSULTANT may rely reasonably on the accuracy and completeness of this information.
3. Obtain, with the assistance of the CONSULTANT as necessary, all approvals for the CONSULTANT to enter upon public and private lands as required for the CONSULTANT to perform the Work.
4. Examine all Deliverables presented by the CONSULTANT and render, in writing, decisions pertaining thereto within a reasonable time so as not to delay the Work.
5. Provide such legal, accounting, and insurance information in connection with the Work as may be required for the completion of the Deliverables.
6. Designate, in writing, a Project Manager to represent the COUNCIL with respect to the Work. Such person shall have authority to transmit instructions, receive information, and interpret and define the COUNCIL's policies and decisions with respect to elements pertinent to the Work.
7. Give prompt written notice to the CONSULTANT whenever the COUNCIL observes or otherwise becomes aware of any development that affects the scope or timing of the CONSULTANT 's services, or of any defect in the Work.

Sample

III. CONSULTANT'S RESPONSIBILITIES

In addition to other responsibilities of the CONSULTANT as set forth in this Contract, the CONSULTANT shall:

1. Provide the personnel and facilities necessary to accomplish the Work. All personnel shall be qualified to perform the Work. Key personnel, to be assigned to the Work, shall be as identified in Exhibit B to this Contract, which is attached and made a part of this Contract. Assignment of other key personnel to, or removal of key personnel identified from, the Work shall be subject to the written approval of the COUNCIL. The COUNCIL may require the removal of any person from the Work.
2. Designate, in writing, the person(s) in responsible charge of the Work. Such person(s) shall be a licensed Professional Engineer or Architect, registered in the State of Minnesota, and shall have authority to transmit instructions, receive information, and render decisions relative to Work on behalf of CONSULTANT.
3. Supervise and direct its personnel and those of its subcontractors in the performance of the Work, using the CONSULTANT's professional skill and attention. In performing its services, the CONSULTANT shall use that degree of accuracy and skill ordinarily

exercised under similar circumstances by respectable members of its profession practicing in the same locality.

4. Be solely responsible for and have control over the means, methods, techniques, and procedures for coordinating all portions of the Work unless specified otherwise in this Contract or in a Written Notice relating to the Work.
5. Be responsible for the performance of its subcontractors.
6. Identify and analyze the requirements of governmental authorities and private concerns having jurisdiction to approve the Work.
7. Be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Work. The CONSULTANT shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury, or loss to, all persons and property that may be affected thereby when services are provided away from the CONSULTANT's offices.
8. Prepare and submit Deliverables consistent with the provisions of the attached exhibits or as identified in a written notice relating to the Work. All Deliverables shall contain a certification consistent with Minnesota Statutes and conforming to the requirements of the Minnesota Board of Architecture, Engineering, Land Surveying, and Landscape Architecture rules.
9. Comply with applicable Federal, State, and local laws and regulations governing the CONSULTANT 's profession, including without limitation Minnesota Statutes Chapter 326, and governing the CONSULTANT 's performance of services under this Contract, including without limitation applicable building codes.

CONSULTANT's opinions of probable construction cost provided pursuant to this Contract are to be made on the basis of the CONSULTANT's experience and qualifications and represent the CONSULTANT's best judgment as an experienced and qualified professional engineer generally familiar with the construction industry.

IV. COMPENSATION FOR SERVICES

4.01 Basis of Compensation. The CONSULTANT shall be compensated for services performed under this Contract on the basis of the CONSULTANT 's cost, plus an agreed fee, up to the Maximum Total Compensation amount specified in Article VI.

4.02 CONSULTANT's Cost. The CONSULTANT's cost shall consist of the total of its Direct Labor costs, its Indirect Costs, and its Reimbursable Expenses. Facilities Capital Cost of Money is not payable as a CONSULTANT cost.

1. Direct Labor costs will be figured in accordance with the actual hourly rates of all personnel employed by the CONSULTANT for the hours actually worked exclusively on the Work by employees of the CONSULTANT. For salaried full-time employees, the hourly rate shall be computed by dividing the employee's annual salary by 2,080 hours. Officers, managers and other employees included in the CONSULTANT's general and administrative expense or other overhead accounts shall not be charged as Direct Labor. Contract labor, including temporary help, which does not meet the IRS definition of an employee for withholding purposes, shall not be included.

2. Indirect Costs are equal to the Indirect Cost Rate applied to the Direct Labor cost applicable to the Work. The Indirect Cost Rate is the sum of the Direct Labor Overhead Rate and the General and Administrative Overhead Rate. The CONSULTANT and its subcontractors shall prepare their Indirect Cost Rates within

Sample

the requirements of Federal Acquisition Regulation (FAR), 48 C.F.R Subpart 31.2, except as modified below.

a. The Direct Labor Overhead Rate is comprised of cost elements which include: personal leaves (sick, vacation, holiday, and bereavement), unemployment compensation, payroll taxes, contributions for social security, insurance benefits (worker's compensation, medical, dental, life, and disability), and retirement benefits. Overtime premiums and all bonuses (i.e., cash or leaves paid above the normal hourly rates) shall not be included in the Direct Labor Overhead Rate.

b. The General and Administrative Overhead Rate is comprised of cost elements which include: indirect labor, office space, utilities, depreciation allowance or rental for furniture, equipment, instruments, copiers, cell phones, personal computers and computer network systems, normal office supplies, business taxes, insurance other than that included in Direct Labor Overhead Rate, professional and business expenses, legal fees, accounting fees, and management costs.

c. Subject to the adjustments specified in the next paragraph, the Indirect Cost Rate for the term of this Contract shall be _____.

d. If the COUNCIL determines that the actual Indirect Cost Rate for the CONSULTANT's Work in any particular year of this Contract (based on actual costs at fiscal year end, or on the anniversary date of this Contract, or at the completion of the Work) is less than the Indirect Cost Rate established in the previous paragraph, then the COUNCIL may adjust the Indirect Cost Rate for that year downward accordingly. Such adjustment may be based on audit by the COUNCIL or other audit approved as provided in section 8.05. In no case shall the Indirect Cost Rate be adjusted to a figure greater than the Indirect Cost Rate established in the previous paragraph.

e. In the event the Indirect Cost Rate for the Work in any particular year of this Contract is adjusted as provided in the previous paragraph, CONSULTANT shall promptly reimburse the COUNCIL for any overpayment by the COUNCIL which resulted from use of the Indirect Cost Rate prior to such adjustment.

Sample

3. Reimbursable Expenses include the cost of project-related travel, long distance telephone charges, equipment rental, materials and supplies, subcontractor services, and similar expenses, all as approved by the COUNCIL.

a. All Reimbursable Expenses must be actual, reasonable, verifiable, and incurred specifically for the Work. Reimbursable Expenses shall be paid at cost with no markup by the CONSULTANT, subcontractors at any tier, or related parties.

b. Only project-related travel costs as provided for under FAR, 48 C.F.R. Subpart 31.2 shall be considered for reimbursement. Reimbursement for privately owned vehicle mileage shall not exceed the applicable U.S. General Services Administration (GSA) rate. Reimbursement for lodging, meals, and incidental expenses shall not exceed the applicable GSA per diem rate.

c. Costs related to cell phones, personal computers and computer network systems shall not be considered Reimbursable Expenses. CONSULTANT's costs for in-house copying and printing shall not be considered Reimbursable Expenses

unless used exclusively for the Work and claimed at a cost at or below reasonable market rates.

d. Equipment purchased and reimbursed as Reimbursable Expenses shall be transferred to the COUNCIL immediately after completion of use on the Work.

e. Subcontractors providing services to the CONSULTANT on a cost reimbursement basis that is based in part on the Subcontractor's Indirect Cost Rate shall use the most recent audited rate determined in compliance with Article 4.02(2) above. Subcontactor Indirect Cost Rates are subject to retroactive adjustment based on actual audited indirect cost rates in the same manner as provided for the CONSULTANT in Article 4.02(2)(d) above, provided that a Subcontractor Indirect Cost Rate may not be adjusted above the rate initially used at the start of the Subcontractor work on the project. In the event that a retroactive adjustment is made to a Subcontractor Indirect Cost Rate, the CONSULTANT shall promptly reimburse the COUNCIL for any overpayment by the COUNCIL which resulted from use of the Indirect Cost Rate prior to such adjustment.

4.03 Agreed Fee. The Agreed Fee for the Work shall be $____.

4.04 Adjustment of Agreed Fee. It is mutually agreed by the COUNCIL and the CONSULTANT that the Maximum Total Compensation specified in Article VI is based on a work effort and expense level established by negotiation. Further, it is mutually agreed that, in the event that a given task and its associated estimated hours of services are reduced or deleted by the COUNCIL, the Agreed Fee proportional to the work of a given task shall be reduced by an amount in direct proportion to the Direct Labor plus Indirect Costs not expended for the task divided by the total Direct Labor plus Indirect Costs for the task.

Sample

V. METHOD OF PAYMENT FOR SERVICES

5.01 Method of Payment for Services. Payments for services to be provided by the CONSULTANT under this Contract shall be invoiced and paid as specified in this article.

5.02 Progress Payments. Progress payments shall include payments for Direct Labor, Indirect Costs, and Reimbursable Expenses as approved by the COUNCIL, and shall also include payments of the CONSULTANT 's Agreed Fee on a prorated basis in accordance with the percentage of Direct Labor plus the Indirect Costs approved by the COUNCIL, as detailed in the CONSULTANT's "Monthly Project Report Form."

5.03 Payment Requests. Progress payments shall be made in full for services authorized in writing and performed, as determined by the COUNCIL, and based on itemized statements, submitted monthly by the CONSULTANT along with a "Payment Claim for Engineering Services" form. The following items shall be included in the monthly submittals:

1. A statement which lists for each employee charging time to the Work, the employee's name, hours expended on the Work, actual hourly rate of pay, and the total amount of Direct Labor invoiced per employee.

2. The Indirect Costs attributable to the Direct Labor in accordance with section 4.02(2).

3. Complete billing detail of Reimbursable Expenses charged to the Work. Such detail shall include receipts or other documentation acceptable to the COUNCIL. Reimbursable Expenses submitted by the CONSULTANT shall be reviewed by the COUNCIL and may be adjusted if not considered within guidelines for such costs as outlined by COUNCIL policies. Reimbursable Expenses shall be paid at cost with no additional markup by the CONSULTANT.

4. The prorated portion of the Agreed Fee due for the progress payment. Solely for that purpose, the Agreed Fee for each progress payment shall be determined by applying ____% to the total of Direct Labor and Indirect Costs invoiced for that progress payment, provided that:

   a. the total amount requested for the Agreed Fee during the term of the Contract shall not exceed the amount specified in section 4.03; and

   b. if the application of the prorated methodology in this paragraph (4) has not already resulted in full payment of the Agreed Fee, the portion of the Agreed Fee requested on the final invoice shall be such amount as will result in the full and complete payment of the Agreed Fee specified in section 4.03.

5. CONSULTANT's "Monthly Project Report Form", describing the CONSULTANT's progress on the Work and stating the overall percentage of completion of each work item and phase of the Work.

Forms to be used by the CONSULTANT for making progress payment requests will be provided by the COUNCIL.

Sample

5.04 Overtime Premiums. Overtime premiums shall not be paid unless authorized in writing by the COUNCIL. Determination of overtime hours shall be consistent with the CONSULTANT 's written policy. In computing payments for overtime, the COUNCIL shall pay a premium of up to an additional 50 percent for Direct Labor and Indirect Costs for all hours qualifying as overtime per the above criteria.

5.05 Review of Payment Requests. The Project Manager shall review the CONSULTANT's monthly payment requests within 10 days of submittal, and either:

1. Recommend payment to be made within 30 days of submittal of the CONSULTANT's monthly payment request, or;
2. Indicate in writing the reason for refusing to approve any portion thereof. The CONSULTANT may make corrections and resubmit the monthly payment request or the CONSULTANT may indicate in writing its acceptance of payment based on the approved portion of the monthly payment request.

5.06 Deferral of Payments. In the event that the CONSULTANT is delinquent in conveyance of Deliverables in accordance with the schedule set forth in this Contract, the COUNCIL may defer payments due until such time as it receives the Deliverables.

VI. MAXIMUM TOTAL COMPENSATION

The Maximum Total Compensation payable to the CONSULTANT by the COUNCIL for all services performed under this Contract, including all CONSULTANT costs and the Agreed Fee,

shall not exceed the amount of $_____ . Payment to the CONSULTANT by the COUNCIL shall not exceed this amount without a formal amendment to this Contract.

VII. TIME OF PERFORMANCE; TERMINATION OF CONTRACT

7.01 Time of Performance. The term of this Contract shall commence on ____ and shall terminate on ____, unless otherwise terminated as provided in this Contract.

7.02 Commencement of Services. CONSULTANT's services under this Contract are to commence when authorized in writing by the COUNCIL and are to be completed in accordance with the schedule specified in Exhibit A, or as approved in writing by the COUNCIL. CONSULTANT shall not commence any work under this Contract until receiving the written authorization.

7.03 Termination of Contract. The COUNCIL shall have the right to terminate this Contract at any time and for any reason by submitting written notice of termination to the CONSULTANT at least thirty calendar days prior to the specified effective date of termination. In such event, all finished and unfinished Deliverables prepared by the CONSULTANT and its subcontractors under this Contract shall become the property of the COUNCIL, and the CONSULTANT shall be entitled to compensation for all authorized services satisfactorily completed under this Contract prior to the date of termination, in accordance with the compensation terms specified in Article IV. Notwithstanding the above, the CONSULTANT shall not be relieved of liability to the COUNCIL for damages sustained by the COUNCIL by virtue of any breach of this Contract by the CONSULTANT. The COUNCIL may withhold any payment to the CONSULTANT until such time as the exact amount of damages due the COUNCIL from CONSULTANT is determined.

7.04 Default by COUNCIL. The CONSULTANT shall have the right to stop performing services under this Contract during any period when the COUNCIL is in default, but only after giving thirty calendar days' written notice to the COUNCIL, specifying the default and stating the CONSULTANT 's intention to stop performing services.

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VIII. ACCOUNTING; RECORD-KEEPING; AUDIT REQUIREMENTS

8.01 Record-Keeping. The CONSULTANT shall maintain books, records, documents and other evidence directly pertinent to performance of the work under this contract in accordance with generally accepted accounting principles and practices, including payrolls, time records, invoices, receipts, and vouchers. The CONSULTANT shall also maintain the financial information and data used in preparation or support of the cost submission for any negotiated contract amendment or change order and provide printed or copied documentation to the COUNCIL as requested. These books, records, documents, and data shall be retained for at least six (6) years after the term of the contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case the CONSULTANT agrees to maintain them until the COUNCIL and any of its duly authorized representatives have disposed of the litigation or claims.

8.02 Audits. As required by Minnesota Statutes, section 16C.05, subdivision 5, the records, books, documents, and accounting procedures and practices of the CONSULTANT and of any subcontractor relating to work performed pursuant to this contract shall be subject to audit and examination by the COUNCIL and the Legislative Auditor or State Auditor. The CONSULTANT and any subcontractor shall permit the COUNCIL or its designee to inspect, copy, and audit its

accounts, records, and business documents at any time during regular business hours, as they may relate to the performance under this contract. Audits conducted by the COUNCIL under this provision shall be in accordance with generally accepted auditing standards. Financial adjustments resulting from any audit by the COUNCIL shall be paid in full within thirty (30) days of the CONSULTANT's receipt of audit.

8.03 Refusal to Pay. The CONSULTANT agrees that the COUNCIL may refuse to pay and, if paid, the CONSULTANT will reimburse to the COUNCIL promptly, all Direct Labor, Indirect Costs, Reimbursable Expenses, and Agreed Fees not verified as having been incurred, determined by the COUNCIL not to be properly allocable to performance under this Contract, or otherwise determined by the COUNCIL to be unreasonable in amount, unsubstantiated in fact, or unauthorized by the COUNCIL as to incurrence. The CONSULTANT acknowledges that the COUNCIL, as a public agency, is obliged to compensate the CONSULTANT for only its reasonable, substantiated, and authorized costs incurred and fees earned as established in this Contract.

8.04 Information on Services. Until the Work is determined to be fully completed by the COUNCIL, the CONSULTANT shall provide to the COUNCIL the following information on the services provided under this Contract:

1. A cost summary listing actual Direct Labor, Indirect Costs and Reimbursable Expenses that have been charged to the Work during the calendar year and during the duration of the project. This summary shall include the actual hourly rates for each employee of the CONSULTANT, the actual direct labor overhead rate, and the actual general and administrative overhead rate, all during the calendar year and during the duration of the project.
2. A cost summary listing projected Direct Labor, Indirect Costs and Reimbursable Expenses that are proposed to be charged to the Work during the coming calendar year. This summary shall include the estimated hourly rates for each personnel category or labor category, the estimated direct labor overhead rate, and the estimated general and administrative overhead rate.

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8.05 Indirect Cost Audit. The CONSULTANT and its subcontractors shall have their respective Indirect Cost Rates (consisting of their Direct Labor Overhead Rate, and General and Administrative Overhead Rate) audited by a Certified Public Accountant in accordance with the requirements of FAR, 48 C.F.R. Subpart 31.2, at the end of each of their fiscal years in which the Work is performed and at the completion of the Work. In lieu of such an audit, the CONSULTANT and its subcontractors may submit the results of an audit by a state or federal agency covering the same time period and meeting the same standards. Results of the audit shall be submitted to the COUNCIL for financial review within 30 days of completion of such audit, and as requested by the COUNCIL.

IX. INDEMNIFICATION; INSURANCE REQUIREMENTS

9.01 Indemnification. The CONSULTANT agrees that it will save and protect, hold harmless, indemnify, and defend the COUNCIL and its members, agents, and employees against any and all claims, expenses (including attorneys' fees), losses, damages, or lawsuits for damage or injury arising out of or resulting from the CONSULTANT's wrongful or negligent acts or omissions in the performance of the Contract, including acts or omissions of its employees, subcontractors, representatives, or agents.

9.02 Errors and Omissions Insurance. The CONSULTANT shall procure and maintain an errors and omissions insurance policy, from an insurance company or companies authorized to do business in the State of Minnesota, acceptable to the COUNCIL, and carrying a rating from Best's or Best's International of A- or higher, or as otherwise approved by the COUNCIL during the term of this Contract. This policy will be maintained for five years following Final Completion of the Work, insuring payment of damages for legal liability arising out of the performance of professional services for the COUNCIL in the insured's capacity as CONSULTANT, if such legal liability is caused by negligent act, error, or omission of the insured or of any person or organization for whom the insured is legally liable. This insurance shall be written for not less than the limits of liability specified below.

$1,000,000 Each Claim/Occurrence
$3,000,000 Annual Aggregate

This policy will state that such insurance cannot be canceled until 30 days after the COUNCIL has received written notice of the insurer's intention to cancel the insurance. Any policy deductible of self-insured retention shall be the responsibility of the CONSULTANT and not the COUNCIL. The CONSULTANT shall provide the COUNCIL with a true and correct copy of the form of such insurance policy, including cover notes thereto and including all endorsements attached thereto. All renewal and replacement policies must meet the requirements of this section 9.02, and a true and correct copy of such policies must be submitted promptly upon issuance.

9.03 Other Insurance. The CONSULTANT shall procure and maintain the following insurance for the term of the contract from an insurance company or companies lawfully authorized and licensed to do business in the State of Minnesota. The coverage will insure against injuries to persons or damage to property, which may in any manner arise out of or result from acts or omissions in performing work under this Contract, by the CONSULTANT or its employees, subcontractors, suppliers, representatives, or agents. Any deductibles or self-insured retentions are the sole responsibility of the CONSULTANT. They must be declared to and approved by the COUNCIL. This insurance shall be written for not less than the limits of liability specified below or as required by law, whichever coverage is greater.

1. Commercial General Liability occurrence form coverage including liability arising from premises, operations, independent contractors, products-completed operations (if applicable), personal injury and advertising injury, and contractual liability assumed under this Contract. The property damage liability shall provide coverage for claims arising out of explosion, collapse and underground damages. The CONSULTANT shall maintain the following limits:

   $1,000,000 Per Occurrence
   $2,000,000 General Aggregate
   $1,000,000 Products Completed/Completed Operations Aggregate

   The general aggregate limit shall apply separately to this Contract. In addition, CONSULTANT shall maintain such products completed operations insurance for at least two years after final payment.
2. Business Automobile coverage for liability arising out of the operation, maintenance or use of any automobile, whether owned, non-owned, rented or leased. The CONSULTANT shall maintain the following limits: Automobile

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Liability with a limit not less than $1,000,000 Combined Single Limit. The limit shall apply to any auto whether it is owned, hired or non-owned.

3. Statutory Workers' Compensation and Employers' Liability coverage, including other states coverage and, if applicable, Maritime and/or Longshoremen and Harbor Workers' Act Coverage. The CONSULTANT shall maintain the following limits:

   Workers' Compensation to be statutory

   Employers' Liability with a limit not less than $500,000 each per person per accident, $500,000 each employee by disease, and $500,000 all employees by disease.

   If the CONSULTANT is a sole proprietor, the following shall be provided:

   Documentation that CONSULTANT has voluntarily chosen not to purchase workers' compensation coverage; and/or

   Evidence of a personal health and disability insurance coverage.

9.04 Certificates of Insurance. Certificates of Insurance for insurance required under Section 9.03 shall be filed with the COUNCIL prior to the commencement of Work. Each certificate shall contain the following: COUNCIL Project Name, COUNCIL Project Number(s), COUNCIL Contract Number, name and address of the insured, and name(s) of additional insured.

1. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 30 days' prior written notice has been given to the COUNCIL by certified mail.
2. Renewal Certificates of Insurance shall be filed with the COUNCIL prior to the expiration of current policies. All renewed "claims-made" insurance policies shall have a retroactive date on or prior to the actual commencement of the CONSULTANT's services.

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9.05 Subcontractor's Insurance. The CONSULTANT shall require all subcontractors engaged by the CONSULTANT in connection with the performance of services hereunder to carry and maintain insurance against the risks set forth above, and in amounts as determined to be appropriate by the CONSULTANT.

9.06 The COUNCIL does not represent in any way that the insurance specified in this Contract, whether in scope of coverage or limits, is adequate or sufficient to protect the CONSULTANT's business or interests. It is the sole responsibility of the CONSULTANT to determine the need for and to procure additional coverage which may be needed in connection with this Contract. Furthermore, the procuring of such required policy or policies of insurance shall not be construed to limit the CONSULTANT's liability under this Contract nor to fulfill the indemnification provisions and requirements of this Contract. Notwithstanding any policy or policies of insurance, the CONSULTANT shall be obligated for the full and total amount of any damage, injury, or loss arising out of or resulting from acts or omission in performing work under this Contract.

9.07 Non-Waiver of Municipal Immunity or Liability Limits. Nothing in this contract shall be construed to waive the municipal immunities or liability limits provided in the Minnesota Municipal Tort Claims Act or other applicable state or federal law.

X. NON-DISCRIMINATION AND AFFIRMATIVE ACTION

10.01 Prohibition on Discriminatory Practices. The CONSULTANT will take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age.

10.02 Affirmative Action. The provisions of this section 10.02 apply only if the amount of this Contract (including the value of any amendments thereto) exceeds $100,000.

A. General Requirements. The requirements of Minnesota Statutes, section 473.144, and Minnesota Rules, parts 5000.3400 to 5000.3600, regarding affirmative action plans, are incorporated in this contract by reference.

B. Disabled Individuals Affirmative Action.

1. The CONSULTANT must not discriminate against any employee or applicant for employment because of a physical, sensory, or mental disability in regard to any position for which the employee or applicant for employment is qualified. The CONSULTANT agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical, sensory, or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
2. The CONSULTANT agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
3. In the event of the CONSULTANT's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes, section 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
4. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form prescribed by the Commissioner of the Minnesota Department of Human Rights. Such notices must state the CONSULTANT's obligation under law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
5. The CONSULTANT must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the CONSULTANT is bound by the terms of Minnesota Statutes, section 363A.36 of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically, sensory, and mentally disabled persons.

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10.03 Freedom from Sexual Harassment. The COUNCIL has a policy which establishes a work environment for COUNCIL employees free of sexual harassment of any form, whether mental or physical. The CONSULTANT shall require its employees, subcontractors, and all other persons providing materials and services for the Work, to conform to this policy as their actions may relate to COUNCIL employees.

10.04 Drug Free/Graffiti Free Environment. The CONSULTANT shall not permit the possession or use of intoxicating liquors or illegal drugs by the CONSULTANT, its subcontractors, or their agents or employees upon any COUNCIL facility or property.
The COUNCIL prohibits the display of all graffiti of any kind, plus pictures and other materials of any kind, containing racial or ethnic slurs, sexually explicit material, or general foul language on all COUNCIL property and facilities. The CONSULTANT shall require its employees, subcontractors, and all other persons providing materials and services for the Work, to conform with this prohibition of display of graffiti, pictures, and other materials on or within CONSULTANT 's, subcontractors', and other persons' equipment, facilities, and vehicles which are located upon, brought onto, or used on COUNCIL property and facilities.

XI. AMENDMENTS

The terms of this contract may be changed by mutual agreement of the parties. Such changes shall be effective only on the execution of written amendment(s) signed by the COUNCIL and the CONSULTANT.

XII. ASSIGNMENT; SUBCONTRACTS

12.01 Assignment. Except as provided in this part, the CONSULTANT shall perform with its own organization the Work provided for under this Contract and shall not assign, subcontract, sublet, or transfer any of the Work provide for without receiving the express written consent of the COUNCIL.

12.02 Suspended or Debarred Subcontractors. The CONSULTANT shall not make awards to subcontractors who have been suspended or debarred by the State of Minnesota.

12.03 Names of Subcontractors. The CONSULTANT shall furnish, in writing, the names of all subcontractors, and their proposed scope of work to be used to complete the Work. The COUNCIL will in writing within two weeks of receipt of subcontractor information, advise the CONSULTANT of the COUNCIL's acceptance or objection to proposed subcontractor(s). The CONSULTANT 's submission shall contain the CONSULTANT 's express representation that none of the listed subcontractors have been suspended or debarred from award of contracts or subcontracts under state or local law. The CONSULTANT shall not contract with any subcontractor to whom the COUNCIL has made objection.

12.04 Requirements of Subcontractor Contracts. All subcontracts between the CONSULTANT and its subcontractors shall require each subcontractor to be bound to the CONSULTANT by the terms of this Contract, and to assume toward the CONSULTANT all the obligations and responsibilities which the CONSULTANT, by this Contract, assumes toward the COUNCIL.

12.05 Subcontract Requirements. All subcontracts shall expressly state that incorporation by reference of specific terms and conditions of this Contract shall not be deemed to create any

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contractual relationship between the COUNCIL and any subcontractor, and that subcontractors are not third-party beneficiaries of this Contract.

12.06 Restriction on Subcontractor Work. All subcontracts shall state that the subcontractor agrees that it will not enter into agreements of any type with construction contracting firms, or their subcontractors, for any construction project resulting from the preparation or issuance of construction documents from the Work of this Contract.

12.07 Reserved.

XIII. RETENTION AND REUSE OF DOCUMENTS

13.01 Deliverables to be Kept Confidential. All Deliverables along with such working papers, calculations, notes, and other information used to produce the Deliverables shall be kept as confidential and shall not be made available to any individual or organization by the CONSULTANT, its subcontractors, or their agents or employees without the prior written approval of the COUNCIL.

13.02 Documents Property of COUNCIL. All documents and records coming into the possession of the CONSULTANT relating to the Work shall be provided to the COUNCIL by the CONSULTANT. Deliverables shall become the property of the COUNCIL. The CONSULTANT is not, however, required to provide the COUNCIL with the CONSULTANT's correspondence file and original working papers, calculations, and notes developed as a result of the Work. The CONSULTANT shall make available to the COUNCIL copies of the CONSULTANT 's correspondence and original working papers, calculations, and notes relating to the Work upon request of the COUNCIL.

13.03 Format of Deliverables. Deliverables shall be prepared in standard English (US) units and language. Upon completion or termination of this Contract, the CONSULTANT shall provide the COUNCIL with a copy, in electronic form, of all Deliverables, reports, studies, and other documents developed by the CONSULTANT in connection with the matters which are the subject of this Contract. Such materials shall be provided in an electronic format compatible with of the following, as appropriate:

- Word processing files: Microsoft® Word 97 or 2003
- Spreadsheet files: Microsoft® Excel 97 or 2003
- Database files: Microsoft® Access 97 or 2003
- Drawing files: AutoCAD 2005 or newer
- Other formats: as agreed to in advance by the COUNCIL

13.04 Deliverables Not Subject to Copyright. No Deliverables produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the CONSULTANT, its subcontractors, their agents or employees.

13.05 Suitability of Deliverables for Reuse. Deliverables provided to the COUNCIL pursuant to this Contract are not intended or represented by the CONSULTANT to be suitable for reuse by the COUNCIL or others on extensions of the Work or on any other project, except for those deliverables prepared as COUNCIL standards. This provision does not prohibit the COUNCIL from utilizing the documents in any manner which the COUNCIL deems appropriate.

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XIV. GENERAL PROVISIONS

14.01 Legal Compliance. This contract shall be governed by and construed according to the laws of the State of Minnesota. Venue for all legal proceedings arising out of this Contract, or breach thereof, shall be in the state or federal court with competent jurisdiction in Ramsey County, Minnesota. The CONSULTANT will comply with all of the COUNCIL's resolutions and policies applicable to this contract and with all applicable local, state or federal laws or regulations. The CONSULTANT agrees that the most recent version of these shall govern at any given time. The CONSULTANT shall exert its best efforts to give all notices required by law and to avoid violations of the law in connection with services provided under this contract. The CONSULTANT shall monitor its agents**,** subcontractors, and employees for the purposes of ensuring compliance with all applicable laws. If any change in circumstances or law will affect the CONSULTANT 's performance under this contract, the CONSULTANT will notify the COUNCIL's Project Manager of the change in circumstances or law at the CONSULTANT's earliest opportunity.

14.02 Independent Contractor Status. The CONSULTANT, in performance of work under this contract, operates as an independent contractor and covenants and agrees that it will conduct itself consistent with such status, that it will neither hold itself out as nor claim to be an officer or employee of the COUNCIL by any reason of this contract, and that it will not by reason of this contract make any claim or demand nor apply for any right or privilege applicable to an officer or employee of the COUNCIL, including, but not limited to, workers' compensation coverage, unemployment or reemployment insurance benefits, Social Security coverage, or retirement membership or credit. The CONSULTANT assumes sole responsibility for payment of all taxes required by federal and state law, including income, employment, property, or franchise taxes.
The CONSULTANT shall be responsible for the satisfactory work performance of all its employees or subcontractors in performing the work described in this contract. Any person employed by the CONSULTANT to perform services under this contract shall not be considered an employee of the COUNCIL for any purpose. The CONSULTANT shall be responsible for payment of all employee wages and benefits and the costs of any subcontractor. The CONSULTANT shall comply with the requirements of employee liability, workers' compensation, unemployment or reemployment insurance, and Social Security, as applicable to its operations. The CONSULTANT shall have in effect personnel policies that conform to all applicable federal, state and local laws. The CONSULTANT shall maintain at all times a current list of personnel assigned to perform work with corresponding documentation of any current licenses or certifications each employee must legally have to carry out the employee's assigned duties.

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14.03 Personal and Organizational Conflicts of Interest.

Personal Conflicts of Interest

The CONSULTANT certifies that to the best of its knowledge, no COUNCIL employee or employee or officer of any agency interested in the contract has any pecuniary interest in the business of the CONSULTANT or with the contract and that no person associated with the CONSULTANT has any interest that would conflict in any manner or degree with the performance of the contract. The CONSULTANT agrees that it is a breach of contracting ethics for the CONSULTANT or any subcontractor to offer, give, or agree to give any COUNCIL member, employee, or agent any gratuity, gift, favor, entertainment, or offer of employment in connection with any decision or action in regard to this contract.

The CONSULTANT, by entering into a contract with the COUNCIL further covenants: 1) that no person or selling agency except bona fide employees or designated agents or representatives of the CONSULTANT has been employed or retained to solicit or secure this contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid; and 2) that no gratuities were offered or given by the CONSULTANT or any of its agents, employees or representatives, to any official, member, or employee of the COUNCIL or other governmental agency with a view toward securing this contract or securing favorable treatment with respect to the awarding or amending, or the making or any determination with respect to the performance of this service.

Organizational Conflicts of Interest

An “organizational conflict of interest” exists when, because of existing or planned activities or because of relationships with other persons, the CONSULTANT is unable or potentially unable to render impartial assistance or advice to the COUNCIL, or the CONSULTANT’s objectivity in performing the contract work is or might be otherwise impaired, or the CONSULTANT has an unfair competitive advantage.

The CONSULTANT agrees that if, after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to the COUNCIL, which must include a description of the action which the CONSULTANT has taken or proposes to take to avoid or mitigate such conflict. If an organization conflict of interest is determined to exist, the COUNCIL may, at its discretion, cancel the contract. In the event the CONSULTANT was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict to the COUNCIL, the COUNCIL may terminate the contract for default. The provisions of this clause must be included in all subcontracts for work to be performed similar to the service provided by the CONSULTANT, with the terms "contract," "CONSULTANT" and "COUNCIL" modified appropriately to preserve the COUNCIL's rights.

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14.04 Dispute Resolution. Claims by the CONSULTANT disputing the meaning and intent of this contract or arising from performance of this contract shall be referred in writing to the COUNCIL’s Project Manager for a written decision. The COUNCIL’s Project Manager shall respond to the CONSULTANT in writing with a decision within ten (10) calendar days following receipt of the CONSULTANT 's claim by the COUNCIL’s Project Manager.

If the CONSULTANT disagrees with any determination or decision of the COUNCIL’s Project Manager, the CONSULTANT shall, within fifteen (15) calendar days of the date of such determination or decision, appeal the determination or decision in writing to the General Manager/Metro Transit, who will serve as the COUNCIL's Dispute Official. Such written appeal shall include all documents and other information necessary to substantiate the dispute or claim. The Dispute Official will review the dispute or claim and transmit a decision in writing to the CONSULTANT within thirty (30) calendar days from the receipt of the dispute or claim. Failure of the CONSULTANT to appeal the decision or determination of the COUNCIL’s Project Manager within the fifteen (15) calendar day period will constitute a waiver of the CONSULTANT 's right to assert thereafter any claim resulting from such determination or decision. Submission of a dispute or claim to the Dispute Official shall be a condition precedent to any litigation under this contract.

Pending final decision of a dispute under this article, the CONSULTANT and the COUNCIL shall proceed diligently with the performance of the contract and the question or claim shall be temporarily resolved in accordance with the decision of the Dispute Official, until final resolution of the question or claim. Failure by the CONSULTANT to comply precisely with the time deadlines

under this paragraph as to any claim shall operate as a release of that claim and a presumption of prejudice to the COUNCIL.

14.05 Data Practices. Consistent with Minnesota Statutes, section 13.05, subdivision 6, if any data on individuals is made available to the CONSULTANT by the COUNCIL pursuant to this Contract, the CONSULTANT will administer and maintain any such data in accordance with Minnesota Statutes, Chapter 13 (the "Minnesota Government Data Practices Act"), and any other statutory provisions applicable to the data. If and to the extent that Minnesota Statutes, section 13.05, subdivision 11, is applicable to this Contract, then: a) all of the data created, collected, received, stored, used, maintained, or disseminated by the CONSULTANT in performing this Contract are subject to the requirements of the Minnesota Government Data Practices Act; b) the CONSULTANT must comply with those requirements as if it were a government entity; and c) the remedies in Minnesota Statutes, section 13.08 apply to the CONSULTANT.

In the event the CONSULTANT receives a request to release data referred to in this section, the CONSULTANT must immediately notify the COUNCIL. The COUNCIL will give the CONSULTANT instructions concerning the release of the data to the requesting party before the data is released.

14.06 Licenses and Permits. The CONSULTANT and any subcontractors shall procure and keep current any and all licenses, permits, or certificates which are or may be required by properly constituted authorities for the performance of the services under this contract.

14.07 Complete Contract. This contract, including exhibits and other documents incorporated in this contract or made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the contract between the CONSULTANT and the COUNCIL. This contract supersedes all prior representations, understandings, and communications. The validity in whole or in part of any term or condition of the contract shall not affect the validity of other terms or conditions. The COUNCIL's failure to insist in any one or more instances upon the CONSULTANT's performance of any term or condition of the contract shall not be construed as a waiver or relinquishment of the COUNCIL's right to such performance, or to future performance, of such term or condition by the CONSULTANT, and the CONSULTANT's obligation for performance of that term or condition shall continue in full force and effect.

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14.08 Continuing Obligations. The CONSULTANT acknowledges that the provisions of this contract impose continuing obligations on the CONSULTANT which extend and are effective notwithstanding the conclusion of the term of this contract.

14.09 Workers Compensation and Tax Withholding Representations. In accordance with Minnesota Statutes, section 176.182, CONSULTANT represents that it is in compliance with the workers' compensation coverage requirements of Minnesota Statutes, section 176.181, subdivision 2.

In accordance with Minnesota Statutes, section 290.97, CONSULTANT represents that it and all its subcontractors under this Contract, if any, are in compliance with the tax withholding on wages requirements of Minnesota Statutes, section 290.92.

14.10 Commissioner of Health Licensing, Certifications, and Rules. All asbestos-related work or asbestos management activity, if any, performed by the CONSULTANT under this Contract shall be performed:

1. by persons or subcontractors licensed or certified (for the types of such work or activity to be carried out) by the Commissioner of Health under the Minnesota Asbestos Abatement Act, Minnesota Statutes, sections 326.70 to 326.81; and
2. in accordance with rules prescribed by the Commissioner of Health related to asbestos abatement and asbestos management activity.

Prior to commencing any such work, the CONSULTANT shall provide to the COUNCIL copies of currently valid licenses or certificates (for all the types of asbestos-related work or asbestos management activities to be carried out under this Contract) issued by the Commissioner of Health under the Minnesota Asbestos Abatement Act.

XV. FEDERAL TRANSIT ADMINISTRATION (FTA) CLAUSES

The provisions of this Article XV are required because this Contract is funded in whole or in part by the United States Department of Transportation (USDOT), Federal Transit Administration. The requirements in this article are in addition to and, unless inconsistent and irreconcilable, do not supplant requirements found elsewhere in this Contract. If any requirement of this article is inconsistent with a provision found elsewhere in this Contract and is irreconcilable with such provision, the requirement in this article shall prevail.

15.01 Fly America Requirements. The CONSULTANT agrees to comply with 49 U.S.C. 40118 (the "Fly America Act") in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The CONSULTANT shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The CONSULTANT agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

15.02 Energy Conservation. The CONSULTANT agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the federal Energy Policy and Conservation Act.

15.03 Access to Records and Reports. The CONSULTANT agrees to provide the COUNCIL, the FTA Administrator, the Comptroller General of the United States, and any of their authorized representatives access to any books, documents, papers and records of the CONSULTANT which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The CONSULTANT also agrees, pursuant to 49 C.F.R. 633.17, to provide the FTA Administrator or the Administrator's authorized representatives, including any project management oversight (PMO) contractor, access to CONSULTANT's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)(1), which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309, or 5311.

Sample

The CONSULTANT agrees to permit any of the foregoing parties to reproduce such documents by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. In addition to any requirements for maintenance of project records and documents in other sections of this Contract, CONSULTANT agrees to maintain such records and documents until the FTA Administrator, the Comptroller General, or any of their duly authorized representatives have disposed of all litigation, appeals, claims or exceptions arising from the performance of this Contract

15.04 Federal Changes. The CONSULTANT shall comply with the required FTA clauses set forth in this contract and with all applicable FTA regulations, policies, procedures and directives including, without limitation, those listed directly or by reference in the agreement between the COUNCIL and FTA. The CONSULTANT's failure to comply with applicable FTA regulations, policies, procedures, and directives, as they may be amended or promulgated from time to time during the term of this contract, shall constitute a material breach of this contract.

15.05 Recovered Materials. The CONSULTANT agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR part 247.

15.06 No Obligation by the Federal Government. The COUNCIL and CONSULTANT acknowledge and agree that, notwithstanding any concurrence by the federal government in or approval of the solicitation or award of this Contract, absent the express written consent by the federal government, the federal government is not a party to this Contract and shall not be subject to any obligations or liabilities to the COUNCIL, CONSULTANT, or any other party (whether or not a party to the Contract) pertaining to any matter resulting from this Contract.

The CONSULTANT agrees to include the preceding clause in each subcontract under this Contract, modified only to identify the subcontractor that will be subject to the provisions.

15.07 Program Fraud and False or Fraudulent Statements or Related Acts. The CONSULTANT acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. Section 3801 *et seq.*, and USDOT regulations, "*Program Fraud Civil Remedies*," 49 CFR part 31, apply to its actions pertaining to this contract. Upon execution of this contract, the CONSULTANT certifies or affirms the truthfulness and accuracy of any statement is has made, it makes, it may make, or causes to be made, pertaining to the contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the CONSULTANT further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONSULTANT to the extent the Federal Government deems appropriate.

The CONSULTANT also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. Section 5307, the Federal Government reserves the right to impose the penalties of 18 U.S.C. Section 1001 and 49 U.S.C. Section 5307(n)(1) on the CONSULTANT, to the extent the Federal Government deems appropriate.

Sample

The CONSULTANT agrees to include the above language in each subcontract under this contract, modified only to identify the subcontractor that will be subject to the provisions.

15.08 Civil Rights. The following requirements apply to this Contract:

1. **Nondiscrimination.** In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and federal transit law at 49 U.S.C. § 5332, the CONSULTANT agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the CONSULTANT agrees to comply with applicable federal implementing regulations and other implementing requirements FTA may issue.

2. **Equal Employment Opportunity.** The following equal employment opportunity requirements apply to this Contract:

   a. **Race, Color, Creed, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and federal transit laws at 49 U.S.C. § 5332, the CONSULTANT agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 42 C.F.R. Parts 60 *et seq*., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of this Contract. The CONSULTANT agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the CONSULTANT agrees to comply with any implementing requirements FTA may issue.

   b. **Age.** In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 532, the CONSULTANT agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the CONSULTANT agrees to comply with any implementing requirements FTA may issue.

   c. **Disabilities.** In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the CONSULTANT agrees that it will comply with the requirements of U.S. Equal Employment Opportunity commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the

Example

CONSULTANT agrees to comply with any implementing requirements FTA may issue.

3. The CONSULTANT agrees to include the requirements of 15.08 in each subcontract under this contract, modified only to identify the subcontractor that will be subject to the provisions.

15.09 Disadvantaged Business Enterprise ("DBE"). (FTA funding with DBE goal)

1. **Nondiscrimination.** Pursuant to 49 CFR section 26.13, the CONSULTANT, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONSULTANT shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the COUNCIL deems appropriate. The CONSULTANT shall include this requirement in all subcontracts pursuant to this contract.

2. **Prompt Payment.** The CONSULTANT agrees to pay subcontractors within ten (10) calendar days of the CONSULTANT's receipt of payment from the COUNCIL for undisputed services provided by the subcontractor. The CONSULTANT agrees to pay subcontractors all undisputed retainage payments within ten (10) calendar days of the CONSULTANT's receipt of payment of retainage from the COUNCIL. The CONSULTANT shall not postpone or delay any undisputed payments owed subcontractors without good cause and without prior written consent of the COUNCIL. The CONSULTANT agrees to include in all subcontracts a provision requiring the use of appropriate alternative dispute resolution mechanisms to resolve payment disputes. The CONSULTANT will not be reimbursed for work performed by subcontractors unless and until the CONSULTANT ensures that subcontractors are promptly paid for work they have performed. Failure to comply with the provisions of this section may result in the COUNCIL finding CONSULTANT in noncompliance with the DBE provisions of this contract and the imposition of Administrative Sanctions described in paragraph 6 below.

3. **DBE Good Faith Efforts**. During the term of this contract, the CONSULTANT will continue to make good faith efforts to ensure that DBEs have maximum opportunity to successfully perform under the contract, and that the CONSULTANT meets its DBE commitment as set forth in its proposal. These efforts shall include, without limitation, the following:

   a. If CONSULTANT requests substitution of a DBE subcontractor or supplier listed in its List of Proposed DBEs, the CONSULTANT shall exert good faith efforts to replace the DBE firm with another DBE firm subject to approval of the COUNCIL's Project Manager.

   b. CONSULTANT shall not terminate for convenience any DBE subcontractor or supplier listed in its List of Proposed DBEs (or an approved substitute DBE firm) and then perform the work itself or with its affiliates without prior written consent of the COUNCIL.

Example

c. If a DBE subcontractor or supplier is terminated or fails to complete its work on the contract for any reason, CONSULTANT shall make good faith efforts to find another DBE firm to substitute for the original DBE firm.

d. The dollar amount of amendments or any other contract modifications that increase or decrease the work area in which DBE participation has been committed to in the CONSULTANT's proposal will be commensurately added to or subtracted from the total contract base figure used to compute actual dollars paid to DBEs. Revised total contract dollar values shall be reflected in the monthly progress report submitted to the COUNCIL.

e. Failure to comply with the provisions of this section may result in the COUNCIL finding CONSULTANT in noncompliance with the DBE provisions of this contract and the imposition of Administrative Sanctions described in paragraph 6 below.

4. **Reporting.** The CONSULTANT will submit monthly progress reports to the COUNCIL reflecting its DBE participation. A "Summary of Subcontracts Awarded and Paid Report," submitted in the format provided by the COUNCIL, shall be submitted to comply with this reporting requirement. Failure to submit this report in a timely manner will result in a penalty of $10 per late day per report and may also result in the imposition of Administrative Sanctions pursuant to the COUNCIL's DBE policy and USDOT regulations. For the purposes of this section, timely submittal means receipt in the contract compliance function of the COUNCIL's Office of Diversity and Equal Opportunity by the close of business on the fifteenth (15th) of the following month.

5. **Review of Good Faith Efforts.**

a. The COUNCIL's office of Diversity and Equal Opportunity will review the CONSULTANT's monthly DBE progress reports to monitor and determine whether the utilization of DBE firms is consistent with the commitment of CONSULTANT as stated in its proposal.

b. If it is determined that the CONSULTANT's DBE utilization under the contract is not consistent with its commitment, the CONSULTANT will be requested, in writing, to submit evidence of its good faith efforts to meet the commitment. The CONSULTANT shall be given ten (10) working days to submit this documentation. Failure to respond shall place the CONSULTANT in non-compliance and subject to imposition of Administrative Sanctions as described in paragraph 6 below.

c. The CONSULTANT's good faith efforts documentation will then be reviewed for accuracy, sufficiency and internal consistency. COUNCIL staff shall make a determination as to the adequacy of the CONSULTANT's good faith efforts documentation and so inform the CONSULTANT. If it is determined that the CONSULTANT's good faith efforts documentation is acceptable, the CONSULTANT will be deemed to be in compliance with the DBE utilization goals.

Sample

d. If it is determined that the CONSULTANT's good faith efforts documentation is not acceptable, the CONSULTANT will be notified and be deemed to be in non-compliance with the DBE utilization goals.

e. Non-compliance by the CONSULTANT with the requirements of federal DBE regulations (49 CFR part 26) constitutes a breach of contract and may result in imposition of Administrative Sanctions as described in paragraph 6 below.

6. **Administrative Sanctions.**

a. If the COUNCIL deems the CONSULTANT to be in non-compliance with the DBE requirements of this contract, the COUNCIL will inform the CONSULTANT in writing, by certified mail, that sanctions shall be imposed for failure to meet DBE utilization goals and/or failure to submit documentation of good faith efforts. The notice will state the specific sanction to be imposed.

b. The CONSULTANT has five (5) working days from the date of the notice to file a written appeal to the COUNCIL's Regional Administrator. Failure to respond within the five (5) day period shall constitute a waiver of appeal. The Regional Administrator or designee, at his or her sole discretion, may schedule a hearing to gather additional facts and evidence and shall issue a final determination on the matter within five (5) working days of receipt of the written appeal. There shall be no right of appeal to the COUNCIL's governing board.

c. Sanctions may include, without limitation: 1) suspension of payment to the CONSULTANT for work that was identified to be performed by a DBE at the time of contract award, or of any monies held by the COUNCIL as retained on the contract; denial to the CONSULTANT (including its principal and key personnel) of the right to participate in future contracts of the COUNCIL for a period of up to three years; and/or termination of the contract for cause.

Sample

15.10 Incorporation of FTA Terms. Specific provisions in this contract include, in part, certain standard terms and conditions required by USDOT, whether or not expressly set forth in the contract provisions. All contractual provisions required by USDOT, as set forth in 49 CFR section 18.36 and FTA Circular 4220.1E, dated June 19, 2003, are hereby incorporated by reference. Notwithstanding anything to the contrary in this contract, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this contract. The CONSULTANT shall not perform any act, fail to perform any act, or refuse to comply with any COUNCIL requests which would cause the COUNCIL to be in violation of the FTA terms and conditions.

15.10a National Intelligent Transportation Systems Architecture and Standards. To the extent applicable, the CONTRACTOR agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by section 5206(e) of TEA-21, 23 U.S.C. § 502 note, and to comply with FTA Notice, "FTA National ITS Architecture Policy on Transit Projects" 66 Fed. Reg. 1455 et seq., January 8, 2001, and other Federal requirements that may be issued.

15.11 Clean Water. The provisions of this section 15.11 apply only if the amount of this contract (including the value of any amendments thereto) exceeds $100,000.

The CONSULTANT agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 *et seq*. The CONSULTANT agrees to report each violation to the COUNCIL and understands and agrees that the COUNCIL will, in turn, report each violation as required to assure notification to FTA and the appropriate Environmental Protection Agency (EPA) Regional Office. The CONSULTANT also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

15.12 Certification of Restrictions on Lobbying; Disclosure. The provisions of this section 15.12 apply only if the amount of this contract (including the value of any amendments thereto) is equal to, or exceeds $100,000.

The CONSULTANT certifies that no federal appropriated funds have been paid or will be paid by or on behalf of the CONSULTANT for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement. The certification of this compliance ("Lobbying Restriction Certification") submitted by CONSULTANT in connection with this project is incorporated in, and made a part of, this contract.

The CONSULTANT further certifies that, if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee or any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the projects funded by the funds allocated to the CONSULTANT in this agreement, the CONSULTANT shall complete and submit to the COUNCIL, Standard Form-LLL, "*Disclosure Form to Report Lobbying*," in accordance with its instructions.

Sample

The CONSULTANT certifies that it will require the language of this certification be included in the award documents for any subcontracts equal to or in excess of $100,000.00 under this agreement, and that all subcontractors shall certify and disclose accordingly to the CONSULTANT. All certifications and disclosures shall be forwarded to the COUNCIL by the CONSULTANT.

The certifications referred to in this section (including the "Lobbying Restriction Certification" submitted by CONSULTANT in connection with this project and incorporated in, and made a part of, this contract) are material representations of fact upon which the COUNCIL relies when this contract is made.

15.13 Clean Air. The provisions of this section 15.13 apply only if the amount of this contract (including the value of any amendments thereto) exceeds $100,000.

The CONSULTANT agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. section 7401 *et seq*. The CONSULTANT agrees to report each violation to the COUNCIL and understands and agrees that the COUNCIL will, in turn, report each violation as required to assure notification to FTA and the appropriate Environmental Protection Agency (EPA) Regional Office. The CONSULTANT also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

15.14 Integrity Certification. The provisions of this section 15.14 apply only if the amount of this contract (including the value of any amendments thereto) exceeds $25,000.

By signing this contract, the CONSULTANT certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract by any Federal department or agency. This certification is a material representation of fact upon which the COUNCIL relies in entering this contract. If it is later determined that the CONSULTANT knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government , the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. The CONSULTANT shall provide to the COUNCIL immediate written notice if at any time the CONSULTANT learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

15.15 Seismic Safety Requirements. The CONSULTANT agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR part 41 and will certify compliance to the extent required by the regulation. The CONSULTANT also agrees to ensure that all Work performed under this agreement including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

15.16 Rights in Data and Patent Rights. The following requirements apply to each contract involving experimental, developmental, or research work:

1. The term "subject data" used in this contract means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.
2. The following restrictions apply to all subject data first produced in the performance of the contract to which this attachment has been added:
    a. Except for its own internal use, the CONSULTANT may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the CONSULTANT authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.
    b. In accordance with 49 CFR section 18.34 and 49 CFR section 19.36, the Federal Government reserves a royalty free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this paragraph below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of

Sample

the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and

2. Any rights of copyright purchased by the CONSULTANT using Federal assistance in whole or in part provided by FTA.

c. When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the CONSULTANT performing experimental, developmental, or research work required by the underlying contract to which this attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this paragraph and shall be delivered as the Federal Government may direct. This subsection (c) , however, does not apply to adaptations of automatic data processing equipment or programs for the CONSULTANT's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

d. Unless prohibited by state law, upon request by the Federal Government, the CONSULTANT agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the CONSULTANT of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The CONSULTANT shall not be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

e. Nothing contained in this paragraph on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

f. Data developed by the CONSULTANT and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this paragraph, provided that the CONSULTANT identifies that data in writing at the time of delivery of the contract work.

g. Unless FTA determines otherwise, the CONSULTANT agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

Sample

3. Unless the Federal Government later makes a contrary determination in writing, irrespective of the CONSULTANT's status (i.e. , a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the CONSULTANT agrees to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR part 401.
4. The CONSULTANT also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

The following requirements apply to each contract involving experimental, developmental, or research work:

1. If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the CONSULTANT agrees to take actions necessary to provide immediate notice and a detailed report to the COUNCIL until FTA is ultimately notified.
2. Unless the Federal Government later makes a contrary determination in writing, irrespective of the CONSULTANT's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the CONSULTANT agrees to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR part 401.
3. The CONSULTANT also agrees to include the requirements of this paragraph in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

Sample

IN WITNESS WHEREOF, the parties have caused this contract to be executed by their duly authorized officers on the dates set forth below.

			METROPOLITAN COUNCIL
By:	_____	By:	_____
Its:	_____	Its:	_____
Date:	_____	Date:	_____

EXHIBIT A TO CONTRACT

Scope of Services

Sample

Exhibit B to Contract

<u>Key Personnel</u>

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Sample

Attachment to the Proposal Instructions:

Affirmative Action Certification Statement

(See Proposal Instructions, section 17, for further information)

Proposer Company Name:

_____

Contract # 12345 Project Name: Sample

(NOTE: If the proposal amount exceeds $100,000, EITHER this form OR a currently effective affirmative action Certificate of Compliance for the Proposer, issued by the Minnesota Department of Human Rights, MUST be submitted with the proposal. See section 17 of the Instructions to Proposers for additional information.)

Instructions: If a proposal is in an amount greater than $100,000, the Council cannot accept the proposal unless the Proposer can affirm either Statement #1 or Statement #2 below. The Proposer must select (by checking the appropriate box) and certify as true one of the two statements below, if it is able to do so. In making its certification, the Proposer should carefully bear in mind the post-submittal requirements noted in connection with each statement. After submittal of the proposal the Council reserves the right to require documentation from the Proposer supporting the certification or to otherwise verify the accuracy of the certification. **If neither statement can be affirmed, no proposal should be submitted.**

CHECK ONLY ONE BOX!

☐	1. The business executing this certification did have more than 40 full-time employees within the State of Minnesota on one or more working days during the 12 months previous to the date the proposal is due. IN ADDITION, the business either: a. has submitted an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals to the Commissioner of Human Rights for approval; or b. has a currently effective Certificate of Compliance from the Commissioner of Human Rights indicating that it has an approved affirmative action plan. **Note: Prior to execution of any agreement arising out of this procurement, the Proposer will be required to provide the Council with a copy of its currently effective Certificate of Compliance.**
☐	2. The business executing this certification did not have more than 40 full-time employees within the State of Minnesota on any working day during the 12 months previous to the date the proposal is due. **Note: Prior to execution of any agreement arising out of this procurement, the Proposer will be required to provide the Council with at least one of the following on a form to be provided by the Council:** a. a certification that the business has a currently effective Certificate of Compliance issued by the Commissioner of Human Rights, along with the copy of that document; or b. a certification that the business is in compliance with federal affirmative action requirements; or c. a certification that the business's primary place of business is not in the United States; or d. a certification that the business did not have more than 40 full-time employees on any working day during the 12 months prior to the date on which it submitted its proposal, in the state where the business has its primary place of business.

CERTIFICATION

On behalf of the Proposer, I certify that the above response is true as of the date this form is signed. I have read and understand the requirements related to this certification statement.

Proposer Name: _____

By: _____ Date: _____

Name: _____ Title: _____

Attachment to the Proposal Instructions:

Subcontractor Information Form (FTA Funding)
(See Proposal Instructions, section 18, for further information)

Proposer Company Name: _____
Contract # 12345 Project Name: Sample
(NOTE: This form MUST be submitted with each proposal.)

Check ONE of the following:
___ **No subcontractors will be used by Proposer on this project.**

___ **Subcontractors are proposed to be used on this project. The following is 1) a list of subcontractors proposed to be used on the project AND 2) a list of subcontractors who submitted bids or quotes to the Proposer for the project but were not selected by the Proposer:**

1) SUBCONTRACTORS PROPOSED TO BE USED ON THE PROJECT:

Firm Name	Address	Telephone Number

2) SUBCONTRACTORS WHO SUBMITTED BIDS OR QUOTES BUT WERE NOT SELECTED:

Firm Name	Address	Telephone Number

(Form continued on next page. Use copies of page 1 of this form if space is needed to list additional subcontract firms and attach such copies to the form.)

CERTIFICATION

On behalf of the Proposer identified below, I certify that the information provided in this form is true and correct.

Proposer Name: _____

By: _____ **Date:** _____

Name: _____

Title: _____

Attachment to the Proposal Instructions:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
(See Proposal instructions, section 19, for further information)

Proposer Company Name: _____
Contract # 12345 Project Name: Sample
(NOTE: This form MUST be submitted with each proposal if the proposal amount exceeds $25,000.)

INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION:

1. **By signing and submitting this proposal, the prospective lower tier participant is providing the signed certification set out below.**
2. The certification referred to in this paragraph is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Council may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the Council if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this paragraph, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549, 49 CFR part 29. You may contact the Council for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the Council.
6. **The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.**
7. A participant in a covered transaction may rely upon certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principles. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this paragraph. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for transactions authorized under subparagraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, the Council may pursue available remedies including suspension and/or debarment.

CERTIFICATION

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its "principals" (as defined at 49 CFR section 29.105(p)) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
2. When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this certification.

Proposer Name:_____

By :_____ Date: _____

Name : _____

Title:_____

Attachment to the Proposal Instructions:

Lobbying Restriction Certification

(See Proposal Instructions, section 20, for further information)

Proposer Company Name: _____

Contract # 12345 Project Name: Sample

(NOTE: This form MUST be submitted with each proposal if the proposal amount is equal to, or exceeds $100,000.)

The undersigned Proposer certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federally funded contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. **IF ANY FUNDS** other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federally funded contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Proposer certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C.A. 3801, *et. seq.,* apply to this certification and disclosure, if any.

Proposer Name:_____

By :_____ Date: _____

Name : _____

Title:_____

Attachment to the Proposal Instructions:

Disadvantaged Business Enterprise Information and Certifications

(See Proposal Instructions, section 21, for further information)

Proposer Company Name: _____
Contract #12345 Project Name: Sample

(NOTE: This form MUST be submitted with each proposal. Part A of this form must be completed by every Proposer. Part B must be completed if required in accordance with the Proposal Instructions, section 21, and the directions in this form.)

PART A

Check ONE of the following:
___ **No DBE participation is proposed on this project**
___ **The following DBE participation is proposed on this project:**

Firm Name (Legal business name used for DBE certification)	**Address**	**How will firm participate?** (Prime; Joint Venture; Partner; Subcontractor; Trucker or Supplier)	**State(s) in which currently certified**	**Description of work**	**Estimated dollar value of participation**	**Estimated percentage of total proposal**
					TOTAL % PROPOSED:	

(Form continued on next page. Use copies of page 1 of this form if additional space is needed to list proposed DBEs and attach such copies to the form.)

CERTIFICATION OF DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION AND GOOD FAITH EFFORTS

On behalf of the Proposer identified below, I certify that:

(check ONE of the following)

___ No DBE participation is proposed on this project.

___ Proposer is committed to use the DBE subcontractor(s) listed in this form on this project at the stated percentage(s).

I further certify that I have read the DBE requirements in section 21of the Proposal Instructions and applicable federal regulations cited therein, and that the Proposer has made appropriate efforts to comply with the DBE requirements for this contract by making good faith efforts to meet the DBE goal specified in section 21 of the Proposal Instructions. I am authorized on behalf of the Proposer to submit this certification to the Council. This certification is a material representation of fact on which the Council may rely in awarding the contract.

Proposer Name: _____

By: _____ Date: _____

Name: _____ Title: _____

NOTE: If the above certification indicates either 1) no DBE participation, or 2) DBE participation at less than the DBE goal established in Section 21 of the Proposer must complete the following Part B of this form.

PART B

THE FOLLOWING GOOD FAITH EFFORTS WERE TAKEN IN ORDER TO MEET THE DBE PARTICIPATION GOAL FOR THIS CONTRACT (use additional sheets if necessary to supplement the responses and attach them to this form):

(Note: the following is a list of types of actions set forth in 40 CFR part 26, Appendix A, Section IV, which will be considered by the Council as a part of the Proposer's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases. A copy of 40 CFR part 26, Appendix A, Section IV, is attached to this document for the Proposer's information.)

1. Describe Proposer's efforts to solicit through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the project. (Include information indicating whether the solicitation of interest took place within sufficient time to allow the DBEs to respond to the solicitation and/or if Proposer took appropriate steps to follow up the initial solicitations.)

2. Describe Proposer's efforts to select portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals would be achieved. (This includes, where appropriate, breaking out project work items into economically feasible units to facilitate DBE participation, even when the Proposer might otherwise prefer to perform these work items with its own forces.)

3. Describe Proposer's efforts to provide interested DBEs with adequate information about the plans, specifications, and requirements of the Request for Proposals in a timely manner to assist them in responding to a solicitation:

4. Describe Proposer's efforts to negotiate in good faith with interested DBEs. (Include information on the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and information as to why additional agreements could not be reached for DBEs to perform the work.)

5. Describe Proposer's efforts to avoid rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. (The CONSULTANT's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the CONSULTANT's efforts to meet the project goal.)

6. Describe Proposer’s efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the Request for Proposals:

7. Describe Proposer’s efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services:

8. Describe Proposer’s efforts to effectively use the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations to provide assistance in the recruitment and placement of DBEs:

9. Describe other factors or types of efforts used by Proposer in its good faith effort to meet the project DBE goal:

PROPOSERS must sign the following certification and attach all documentation of good faith efforts.

CERTIFICATION

On behalf of the Proposer identified below, I certify that I have read the DBE requirements in section 21 of the Proposal Instructions and applicable federal regulations cited therein. I further certify that the Proposer has made appropriate efforts to comply with the DBE requirements for this contract by undertaking the efforts documented in this certification. I have enclosed or attached all documentation of the Proposer's efforts to comply with the DBE requirements, on which the Council may rely in determining whether the Proposer has met the good faith efforts requirements. I am authorized on behalf of the Proposer to submit this form and documentation to the Council. This certification is a material representation of fact on which the Council may rely in awarding the contract.

Proposer Name: _____

By: _____ Date: _____

Name: _____

Title: _____

[Excerpt from Appendix A to 40 CFR, Part 26: "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs"]

"IV. The following is a list of types of actions which you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs."

NOTE: If the above certification indicates either 1) no WBE participation, or 2) WBE participation at less than the WBE goal established in section 21 of the Proposal Instructions, the Proposer must complete the following Part B of this form**.**

DOCUMENT 00200 (FTA Funding)

PART 1: INSTRUCTIONS TO BIDDERS

GENERAL INFORMATION

1.1 GENERAL

A. This **Document 00200 Instructions To Bidders** contains information and instructions pertaining to the proper form and method for submission of Bids, requirements or conditions which the COUNCIL considers unusual or of special importance, requirements as to surety and insurance, and provisions relating to the award of a Contract.

B. The terms used in **Document 00200 Instructions To Bidders** which are defined in **Document 00700 General Conditions** have the meanings assigned to them in the General Conditions.

C. The COUNCIL's Invitation for Bids (IFB) Administrator for this procurement is as follows:

Name:

Address: 515 North Cleveland Avenue, Saint Paul, Minnesota 55114-1878

Telephone Number:

Facsimile Number:

E-Mail Address: @metc.state.mn.us

D. The COUNCIL's Project Manager for this procurement is as follows:

Name:

Address: 560 Sixth Avenue North, Minneapolis, Minnesota 55411

Telephone Number:

Facsimile Number:

E-Mail Address: @metc.state.mn.us

E. A general description of the Work is found in **SECTION 01100 SUMMARY OF WORK**.

F. Names of plan holders of record may be obtained from the IFB Administrator identified in Part 1.1.C above.

1.2 EXAMINATION OF BIDDING DOCUMENTS AND WORK SITE

A. Carefully examine the Bidding Documents and the work site to become fully informed of existing conditions and limitations under which the Work is to be performed.

B. Submittal of a Bid shall be conclusive evidence that the Bidder has made such examination.

C. Failure to make such examination will not be accepted as a basis for claims for extra compensation or extension of time.

1.3 PRE-BID MEETING

A. A Pre-Bid Meeting is scheduled for the time and at the place indicated in **Document 00150 Advertisement For Bids**.

1.4 INTERPRETATION OF BIDDING DOCUMENTS PRIOR TO BIDDING

A. In general, no answer will be given in reply to an oral question if the question involves an interpretation of the intent or meaning of the Bidding Documents, or the equality or use of products or methods other than those definitely designated or described on the Drawings or in the Specifications.

B. Neither the COUNCIL nor the A/E will approve nor disapprove particular products prior to the opening of the Bids; such products will be considered when offered by the CONTRACTOR for incorporation into the Work.

C. To receive consideration, questions regarding the Bidding Documents must be submitted in writing no later than 5 days prior to the advertised date for receipt of Bids.

- Questions regarding the Technical Specifications and Drawings shall be directed to the Project Manger identified in Part 1.1.D of these Instructions.
- Questions regarding the Bidding and Contracting Requirements shall be directed to the IFB Administrator identified in Part 1.1.C of these Instructions.

D. An addendum will be issued as required, containing responses to those questions raised which require interpretation. The Addendum will be issued to all holders of record of the documents at the address provided by them, by certified mail with return receipt requested, by telegram, by electronic delivery, or by hand delivery.

1.5 COUNCIL OBTAINED PERMITS

A. The permit for ownership and operation of systems, as well as other applicable permits which may have been secured by the COUNCIL, may be examined at the office of the Metropolitan Council. Contact the Project Manager identified in Part 1.1.D of these Instructions for an appointment to view such documents.

1.6 PREPARING THE BID FORM

A. **Document 00410 Bid Form** contains three schedules, the requirements for each are as follows:

1. **SCHEDULE I - SCHEDULE OF BID FOR COMPLETE CONSTRUCTION**: This SCHEDULE consists of all designated Bid items incorporated in the **TOTAL BID**. The **TOTAL BID** includes all work shown on, and included in, the Bidding Documents.

2. **SCHEDULE II - BID CONDITIONS**: This SCHEDULE defines the basis for establishing the amount of Bid Security, the determination of the lowest Bidder and the conditions under which the COUNCIL may determine that the Bidder has abandoned the Contract.

3 **SCHEDULE III - CERTIFICATION AND EXECUTION**: This SCHEDULE includes blanks for Bid Security information, Addenda information, and the Bidder's signature.

B. Prepare Bids on the forms issued with the Project Manual. Fill in all blank spaces by typing or by writing in ink.

C. Do not alter the forms unless otherwise instructed by Addendum.

D. The number under "Estimated Quantity" for each Unit Price Item is the COUNCIL's estimate of the quantity of that work to be performed. The actual quantity may differ.

E. Include in the Bid all sales, excise, use, and other taxes required by Federal, State, and local Laws and Regulations.

F. State the price or amount for each item in figures, make extensions for each (as required), and total as indicated.

G. Enter the **TOTAL BID** amount in figures only.

H. Sign the Bid Form manually in ink.

1. A Bid from a corporation must be signed in a legal manner in the name of the corporation by an officer whose name and title shall be stated or by another authorized representative of the corporation submitting the proposal. The corporation's complete official address shall be stated and the corporate seal affixed.

2. A Bid made by a company, firm, partnership, or individual must be signed by the individual(s) or by an authorized representative, member, or officer whose capacity shall be stated. The complete official address shall also be stated.

I. Submit only one copy of the Bid Form with an original signature; do not submit multiple copies of the Bid Form.

1.7 BID SECURITY

A. Furnish a Bid Security of not less than 10% of the **TOTAL BID.**

B. The Bid Security shall be either:

1. A Certified Check or a Cashier's Check drawn on a national bank or trust company and made payable to “Metropolitan Council”.

2. A Bid Bond issued by a Surety company licensed to do business in the State of Minnesota and made payable to the Metropolitan Council. The Bid Bond shall be on **Document 00440 Bid Bond.**

1.8 CERTIFICATE OF COMPLIANCE FOR PUBLIC CONTRACTS

The provisions of this section 1.8 apply only if the amount of the bid exceeds $100,000.

Under the provisions of Minnesota Statutes, section 473.144, the COUNCIL may not accept a bid or proposal for over $100,000 from any business having more than forty (40) full-time employees in Minnesota on a single working day during the previous twelve (12) months, unless that business has submitted an affirmative action plan to the Minnesota Commissioner of Human Rights for approval. The COUNCIL may not execute a contract for over $100,000 with any business having more than forty (40) full-time employees in Minnesota on a single working day during the previous twelve (12) months, unless that business has an approved affirmative action plan, evidenced by a Certificate of Compliance from the Minnesota Department of Human Rights. A certificate is valid for 2 years. In addition, for any business which did not have more than forty (40) full-time employees in Minnesota, but which had more than forty (40) full-time employees on a single working day during the previous twelve (12) months in the state in which it has its primary place of business, the COUNCIL may not execute a contract with such a business unless the business has an approved affirmative action plan, evidenced by a Certificate of Compliance from the Minnesota Department of Human Rights, or the business certifies to the COUNCIL that the business is in compliance with federal affirmative action requirements.

To ensure compliance with this statute, all Bidders must complete and furnish in the bid package **EITHER**:

1. a copy of the Bidder’s currently effective affirmative action Certificate of Compliance issued by the Minnesota Department of Human Rights; **OR**

2. **Document 00450 Bidder's Affirmative Action Certification Statement** with information which indicates that the COUNCIL can accept the Bidder’s bid.

Failure to submit one of these documents along with the bid will result in the bid being rejected and returned to the Bidder as non-responsive. Bidders are advised that the COUNCIL may verify representations made by a Bidder in **Document 00450 Bidder’s Affirmative Action Certification Statement** which is submitted with the Bid.

If a Bidder submits an Affirmative Action Plan for approval of the Minnesota Commissioner of Human Rights in order to qualify for acceptance of its bid by the COUNCIL and becomes the selected vendor, the COUNCIL will not execute the contract for services until the Bidder has actually been issued a Certificate of Compliance from the Minnesota Department of Human Rights. The COUNCIL is under no obligation to delay the award and execution of a contract until a Bidder has completed the human rights certification process. It is the sole responsibility of a Bidder to apply for and obtain a human rights certificate prior to contract award and execution.

If a contract based upon this Advertisement for Bids or any modification of the contract exceeds a value of $100,000, the provisions of Minnesota Statutes, section 473.144, and

Minnesota Rules, parts 5000.3400 to 5000.3600 will be incorporated into said contract or modification. The referenced provisions relate to contractor requirements for affirmative action plans for minority individuals, women, and disabled individuals. Copies of the referenced provisions are available upon request from the IFB Administrator identified in Part 1.1.C of these Instructions. Copies may also be accessed at the following internet web sites:

Minnesota Statutes, section 473.144: www.revisor.leg.state.mn.us/stats/473/144.html

Minnesota Rules, parts 5000.3400 -.3600: www.revisor.leg.state.mn.us/arule/5000/

1.9 [reserved.]

1.10 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION (FTA or PFA Funding)

The provisions of this section 1.10 apply only if the amount of the bid exceeds $25,000.
All Bidders must complete and furnish in the bid package **Document 00457 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**.

1.11 BUY AMERICA CERTIFICATION (FTA Funding)

The provisions of this section 1.11 apply only if the amount of the bid exceeds $100,000

The successful bidder will be required to comply with 49 U.S.C. Section 5323(j), and 49 C.F.R., Part 661, which provide that federal funds may not be obligated unless steel, iron , and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by the FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R., Section 661.7. All bidders must complete and furnish in the bid package **Document 00460 Buy America Certification**, except those subject to a general waiver. Bids not accompanied by a completed **Document 00460 Buy America Certification** will be rejected as non-responsive.

1.12 LOBBYING RESTRICTION CERTIFICATION (FTA or PFA Funding)

The provisions of this section 1.12 apply only if the amount of the bid is equal to, or exceeds $100,000.

The Bidder must comply with the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352(b)(5), and 49 CFR part 20, which provide restrictions on lobbying with federally-appropriated funds and impose disclosure requirements for lobbying with non-federal funds. **Document 00470 Lobbying Restriction Certification** must be completed and furnished in the bid package if the bid is equal to or exceeds $100,000. The certification and disclosures are material representations of fact upon which the COUNCIL will rely in awarding the contract. Upon award of any subcontracts or supply contracts equal to or exceeding $100,000 under the contract, the successful bidder will be required to obtain the same certification from its subcontractors and suppliers and forward the certification and any disclosures to the COUNCIL.

1.13 DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS (FTA Funding with Goal)

Complete details of Disadvanted Business Enterprise policies and procedures, and required submittals, are in **Document 00485 Disadvantaged Business Enterprise Subcontract Policy and Procedure**. Pursuant to that document, all Bidders must complete and furnish in the bid

package **Document 00485A Disadvantaged Business Enterprise Information and Certifications**.

1.14 BIDDING DOCUMENT PROTESTS

A. Bidders must first discuss their concerns with the Contracts and Procurement Unit Manager in an effort to resolve the concerns through an informal procedure. The Contracts and Procurement Unit Manager is as follow:

Metro Transit

515 North Cleveland Avenue

Saint. Paul, Minnesota 55114-1878

Telephone Number:

Facsimile Number:

E-Mail Address: @metc.state.mn.us

B. In the event Bidders believe that their concerns have not been resolved through an informal procedure with the Contracts and Procurement Unit Manager, Bidders may file a protest with the COUNCIL.

C. Bidding Document Protests must be limited to the topics identified in, and must be filed consistent with, **Document 00490 Protest Procedures**.

PART 2 BID SUBMITTAL

2.1 PACKAGING OF BIDS

A. The bid package consists of the following documents:

1. **Document 00410 Bid Form**

2. **Document 00440 Bid Bond** or other form of Bid Security

3. If the amount of the Bid exceeds $100,000, either: 1) a currently-effective Affirmative Action Certificate of Compliance, or 2) **Document 00450 Affirmative Action Certification Statement**

4. If the amount of the Bid exceeds $25,000, **Document 00457 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion** (FTA or PFA Funding)

5. If the amount of the Bid exceeds $100,000, **Document 00460 Buy America Certification** (FTA Funding)

6. If the amount of the Bid equals, or exceeds, $100,000, **Document 00470 Lobbying Restriction Certification** (FTA or PFA Funding)

7. **Document 00485A Disadvantaged Business Enterprise Information and Certifications** (FTA Funding with Goal)

B. Bids must be placed in a sealed, opaque envelope.

C. The sealed envelope must be labeled as follows:

Metropolitan Council
SEALED BID
For SAMPLE
Contract Number _____, Procurement Number _____

D. The Bidder's name must appear in the upper left corner of the envelope.

E. Bids may be sent by US Mail or other delivery system. Bidders who utilize such delivery systems shall do so at their sole risk and shall be responsible for the timely and accurate delivery of their bid package. Bids sent by US Mail or other delivery systems shall be packaged in the following manner:

1. The sealed bid package shall be placed in a sealed mailing/delivery envelope.

2. The mailing/delivery envelope shall be addressed as follows:

Metro Transit
ATTN: _____
DELIVER IMMEDIATELY
CONTAINS BIDDING DOCUMENTS
515 North Cleveland Ave
St. Paul, MN 55114-1878

2.2 DELIVERING BIDS

A. Deliver the separate, sealed bid package to the Metropolitan Council at the address indicated in Part 2.1.E of these Instructions no later than the time and date indicated in **Document 00150 Advertisement For Bids.**

B. **BIDS RECEIVED AFTER THE TIME FOR RECEIPT OF BIDS WILL BE RETURNED UNOPENED.**

2.3 MODIFICATION AND WITHDRAWAL OF BIDS

A. Bids may be modified or withdrawn at any time prior to the designated time for the opening of Bids.

B. Modifications to bids must be packaged in the same manner as the Bids and include the words “Bid Modification” on the envelope.

C. Requests to withdraw a bid must be in writing on the Bidder’s letterhead. The withdrawer of the Bid must show positive proof that they are acting as the Bidder’s official representative.

D. No Bids may be withdrawn within 90 days after the actual date of the opening thereof.

2.4 BID OPENING

A. Immediately following the time and date for receipt of Bids, the Bids will be publicly opened.

2.5 EVALUATION OF BIDS

A. **Document 00410 Bid Form**

1. COUNCIL will verify that all blanks are properly completed.

2. COUNCIL will verify multiplication and addition used to calculate the “Extended Amount” and the **TOTAL BID**.

   a. If the ”Estimated Quantity” times the “Unit Price” yields an amount different from the amount shown in the corresponding “Extended Amount” column, then the corrected amount will be used.

   b. If the sum of the “Extended Amount” for each of the individual line items yields an amount different from the **TOTAL BID** shown, then the correct result will be used and will be considered the **TOTAL BID**.

3. IF MORE THAN ONE COPY OF THE DOCUMENT 00410 BID FORM HAS BEEN SUBMITTED, EACH WILL BE REVIEWED AND EVALUATED AND THAT COPY WHICH PROVIDES FOR THE LOWEST TOTAL BID WILL BECOME THE BIDDER’S OFFICIAL BID.

4. All numbers must be expressed in figures and not in writing or in words. Amounts entered in writing or in words on the Bid Form or in the Bid Schedule will be ignored.

B. Bid Security

1. COUNCIL will verify that a bid security is provided and is in proper form, format, and amount.

2. If a bid bond form is used COUNCIL will verify that the bid bond form provides the coverage equivalent to **Document 00440 Bid Bond**, that all blanks are properly completed, that Acknowledgment of Principal and Acknowledgment of Surety are attached, and that a valid surety’s Power of Attorney form is attached.

   FAILURE TO PROPERLY PROVIDE THE BID BOND OR PROVIDING A BID BOND WHICH IS NOT EQUIVALENT TO DOCUMENT 00440 BID BOND FORM MAY RESULT IN THE BID BEING REJECTED AS NON-RESPONSIVE.

3. FAILURE TO PROVIDE A FORM OF BID SECURITY WHICH IS NOT LESS THAN 10% OF THE TOTAL BID WILL RESULT IN THE BID BEING REJECTED AS NON-RESPONSIVE.

C. Affirmative Action Requirements

1. The provisions of this subsection 2.5.C apply if the amount of the Bid exceeds $100,000.

2. The COUNCIL will verify that the bid package includes either: 1) a currently-effective Affirmative Action Certificate of Compliance, or 2) **Document 00450 Affirmative Action Certification** with information which indicates that the COUNCIL can accept the Bidder's Bid.

3. FAILURE TO INCLUDE EITHER 1) A COPY OF THE CERTIFICATE OF COMPLIANCE OR 2) DOCUMENT 00450 BIDDER'S AFFIRMATIVE ACTION CERTIFICATION STATEMENT, PROPERLY COMPLETED AND WITH INFORMATION INDICATING THAT THE COUNCIL CAN ACCEPT THE BIDDER'S BID, WILL RESULT IN THE BID BEING REJECTED AS NON-RESPONSIVE.

4. The COUNCIL may verify, with the Department of Human Rights, each Bidder's representation regarding Affirmative Action.

5. A DETERMINATION THAT THE CERTIFICATE OF COMPLIANCE IS NOT CURRENTLY VALID OR THAT INFORMATION PRESENTED ON DOCUMENT 00450 BIDDER'S AFFIRMATIVE ACTION CERTIFICATION STATEMENT IS INACCURATE WILL RESULT IN THE BID BEING REJECTED AS NON-RESPONSIVE.

D. **Document 00457 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (FTA or PFA Funding)**

1. The provisions of this subsection 2.5.D apply if the amount of the Bid exceeds $25,000.

2. COUNCIL will verify that all blanks are properly completed.

3. Failure to include a **Document 00457 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**, or failure to complete the document, will result in the bid being rejected as non-responsive.

E. **Document 00460 Buy America Certification (FTA Funding)**

1. The provisions of this subsection 2.5.E apply if the amount of the Bid exceeds $100,000.

2. COUNCIL will verify that all blanks are properly completed.

3. Failure to include a **Document 00460 Buy America Certification**, or failure to complete the document, will result in the bid being rejected as non-responsive.

F. **Document 00470 Lobbying Restriction Certification (FTA or PFA Funding)**

1. The provisions of this subsection 2.5.F apply if the amount of the Bid equals, or exceeds, $100,000.

2. COUNCIL will verify that all blanks are properly completed.

3. Failure to include a **Document 00470 Lobbying Restriction Certification**, or failure to complete the document, will result in the bid being rejected as non-responsive.

G. **Document 00485A Disadvantaged Business Enterprise Information and Certifications (FTA Funding with Goal)**

1. COUNCIL will verify that all blanks are properly completed.

2. Failure to include a Document 00485A Disadvantaged Business Enterprise Information and Certifications, or failure to complete the document, will result in the bid being rejected as non-responsive.

2.6 COMPARISON OF BIDS

A. Bids will be compared on the basis of the **TOTAL BID** and this amount will be the basis for determining the apparent low Bidder.

B. Supplementary additive or deductive prices for materials or equipment not in complete conformance with the Specifications or any other prices or amounts submitted in departure from the Bid Form will not be considered in the comparison of Bids.

2.7 POST-BID SUBMITTALS - GENERAL

A. The COUNCIL reserves the right to request, and the 3 apparent low Bidders shall submit, additional information as may be necessary to determine the responsiveness and responsibility of the Bidders.

B. Submit all post-bid submittals to:

Metro Transit
Don Pleau

515 North Cleveland Avenue
St. Paul, MN 55114-1878

2.8 post-BID submittals - subcontractors

A. After the opening of bids but before award of the contract, the COUNCIL will notify the three apparent low Bidders that they are being considered for award. Each Bidder so notified must, within seven days from receipt of the notice, submit the following subcontractor information on a form to be provided by the COUNCIL. Bidders will be required to indicate on the form either:

1. that no subcontractors will be used on the project; or

2. the name, address, and telephone number of (i) each subcontractor proposed to be used on the project, AND (ii) each subcontractor who submitted a bid or quote for the project but was not selected by the Bidder.

Bidders will also be required to complete and execute a certification on the form attesting to the accuracy of the information provided.

B. **FAILURE TO SUBMIT A PROPERLY COMPLETED FORM MAY RESULT IN NO FURTHER CONSIDERATION OF THE BID BY THE COUNCIL.**

2.9 post-bid submittals – disadvantaged business enterprise (DBE)

A. Complete details of required post-bid submittals relating to Disadvantaged Business Enterprise subcontracting are contained in **Document 00485 Disadvantaged Business Enterprise (DBE) Subcontracting Policy and Procedure**.

B. Failure of a Bidder to provide post-bid submittals as required by **Document 00485 Disadvantaged Business Enterprise (DBE) Subcontracting Policy and Procedure** may result in no further consideration of the bid by the COUNCIL.

2.10 post-bid submittals – affirmative action certification

A. Upon request, the bidder shall submit a currently effective affirmative action Certificate of Compliance issued by the Minnesota Department of Human Rights or other certification as required by Document 00450 Bidders Affirmative Action Certification Statement.

2.11 POST-BID SUBMITTALS - OTHER

A. The COUNCIL may request additional information necessary to demonstrate the Bidder, proposed subcontractors, and proposed suppliers have adequate experience, have successfully completed work similar to the types of work required, have adequate resources, and are otherwise sufficiently responsible to assure satisfactory completion of the Work.

B. Submit requested information within 7 calendar days after the request.

C. **FAILURE OF THE BIDDER TO PROVIDE REQUESTED INFORMATION MAY RESULT IN THE BID BEING REJECTED AS NON-RESPONSIBLE.**

2.12 RESPONSIVENESS OF BIDDER

A. The three apparent lowest Bids will be reviewed for responsiveness to the Bidding Documents.

B. Information provided in the bid package and the bid will be used to evaluate the responsiveness of the Bidders.

2.13 RESPONSIBILITY OF BIDDER

A. The three apparent low Bidders will be reviewed for their responsibility as a contractor.

B. The COUNCIL will consider experience and past performance on prior COUNCIL projects of the Bidder and its proposed subcontractors to determine their ability to execute the Work.

C. When the Bidder or its proposed subcontractors have not worked on prior COUNCIL projects, information furnished with required post-bid submittals will be used to evaluate the ability of the Bidder and its proposed subcontractors. Information from other sources may also be used.

D. If available information indicates that a Bidder is not able to execute the Work, the COUNCIL will notify that Bidder of apparent discrepancies. The Bidder shall have 7 calendar days to rectify incorrect information and further demonstrate its ability to execute the Work.

2.14 BIDDING PROCEDURES PROTEST

A. Bidders must first discuss their concerns with the Contracts and Procurement Unit Manager identified in Part 1.14.A of these Instructions in an effort to resolve the concerns through an informal procedure.

B. In the event Bidders believe that their concerns have not been resolved through an informal procedure with the Contracts and Procurement Unit Manager, Bidders may file a protest with the COUNCIL.

C. Bidding Procedure Protests must be limited to the topics identified in, and must be filed consistent with, **Document 00490 Protest Procedures**.

PART 3 AWARD OF CONTRACT

3.1 INTENT TO AWARD CONTRACT

A. The COUNCIL intends to award a contract to the lowest, responsive, responsible Bidder, provided the Bid is reasonable and does not exceed the funds available.

3.2 REJECTION OF BIDS

A. **THE COUNCIL RESERVES THE RIGHT TO REJECT ANY OR ALL BIDS, AND TO WAIVE ANY INFORMALITIES OR IRREGULARITIES IN THE BIDS AS MAY BE DEEMED IN THE BEST INTEREST OF THE COUNCIL.**

B. **BIDS WHICH CONTAIN IRREGULARITIES OR ARE BASED ON OR OFFER MATERIALS, EQUIPMENT, OR WORK WHICH IS NOT FULLY IN CONFORMANCE WITH THE BIDDING DOCUMENTS MAY BE REJECTED AS NON-RESPONSIVE.**

C. **BIDS THAT CONTAIN CONDITIONS, QUALIFICATIONS, LIMITATIONS, OR ESCALATOR CLAUSES SHALL BE REJECTED AS NON-RESPONSIVE.**

D. **BIDS FOUND TO VARY SUBSTANTIALLY FROM REQUIREMENTS OF THE BIDDING DOCUMENTS SHALL BE REJECTED AS NON-RESPONSIVE.**

3.3 NOTICE OF AWARD

If approved, in accordance with the COUNCIL's policies and procedures, a Notice of Award will be issued.

3.4 AWARD OF CONTRACT PROTEST PROCEDURE

A. Bidders must first discuss their concerns with the Contracts and Procurement Unit Manager identified in Part 1.14 of these Instructions in an effort to resolve the concerns through an informal procedure.

B. In the event Bidders believe that their concerns have not been resolved through an informal procedure with the Contracts and Procurement Unit Manager, Bidders may file a protest with the COUNCIL.

C. Award of Contract Procedure Protests must be limited to the topics identified in, and must be filed consistent with, **Document 00490 Protest Procedure**.

D. Determinations and reconsiderations regarding failure to meet DBE requirements for this contract are handled in accordance with the provisions in **Document 00485 Disadvantaged Business Enterprise (DBE) Subcontracting Policy and Procedure** and are not subject to the protest procedures in **Document 00490 Protest Procedures**.

3.5 EXECUTION OF CONTRACT

A. The COUNCIL will send the Notice of Award, 2 copies of **Document 00520 Contract Agreement**, and 2 copies of the appropriate bond forms to the successful Bidder at the address given on the Bid Form.

B. Performance Bonds and Payment Bonds shall be in the form provided with the Notice Of Award. The surety for each Bond shall be one or more surety companies licensed to do business in the State of Minnesota.

C. DO NOT alter the Contract Agreement or the bond forms. Unauthorized changes may be cause for rejection of the Bid or delay in the Notice To Proceed.

D. Deliver the executed Contract Agreement, properly executed bonds, insurance certificates, insurance binders, and other required documents, to the Contracts and Procurement Unit Manager within 14 calendar days after the delivery of the Notice Of Award.

E. The COUNCIL will issue a Notice To Proceed letter within 90 days of the Bid opening, provided that properly executed forms and other required documents are submitted by the successful Bidder within the specified times.

F. The Notice To Proceed will identify the commencement time for the Project.

G. If, at any time after the Contract is awarded, subsequent investigations or information reveal that the representations made by the CONTRACTOR relative to either its Minnesota Certificate of Compliance or **Document 00450 Affirmative Action Certification Statement** are inaccurate, the COUNCIL may terminate the Contract, pursuant to prevailing law.

END OF DOCUMENT

DOCUMENT 00485

DISADVANTAGED BUSINESS ENTERPRISE (DBE) SUBCONTRACTING POLICY AND PROCEDURE

Part 1: DBE PROGRAM

1.1 Policy

A. The COUNCIL, a US Department of Transportation (USDOT) grant recipient, shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of 49 CFR part 26. USDOT-assisted contracts include financial assistance from USDOT, the Federal Transit Administration (FTA), the Federal Highway Administration (FHWA), or the Federal Aviation Administration (FAA).

B. This contract is funded in part with a grant from the Federal Transit Administration (FTA). The Disadvantaged Business Enterprise (DBE) requirements of the Transportation Equity Act for the 21st Century (TEA-21) and 49 CFR part 26 apply to the contract for this Project.

C. This **Document 00485 Disadvantaged Business Enterprise (DBE) Subcontracting Policy and Procedure** contains pre-award requirements for Bidders. Post-award requirements relating to Disadvantaged Business Enterprise are contained in **Document 00710 Supplemental Conditions for FTA-Funded Projects** which should also be carefully reviewed by Bidders.

D. Attached to this document is the following form:

1. **Document 00485A Disadvantaged Business Enterprise Information and Certifications**

Submittal requirements for this form are described in this document.

1.2 DBE Participation Goal

For the purposes of this contract, the COUNCIL has established a 17% goal for DBE participation.

1.3 Definitions

A. Disadvantaged Business Enterprise (DBE) means a for-profit small business concern which is at least 51% owned by one or more socially and economically disadvantaged individuals. In the case of any publicly-owned business, at least 51% of the stock must be owned by one or more socially and economically disadvantaged individuals; and the management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

B. Small Business Concern (with respect to firms seeking to participate as DBEs in USDOT-assisted contracts) means a small business as defined pursuant to the Small Business Act (13 CFR 121).

C. Socially and Economically Disadvantaged Individuals (for purposes of USDOT-assisted projects) means any individual who is a citizen (or lawfully admitted permanent resident) of the United States, and who is:

a) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis;

b) Women (regardless of race, ethnicity or origin); or

c) Individuals found to be socially and economically disadvantaged by the U.S. SBA pursuant to Section 8(a) of the Small Business Act.

The COUNCIL will make a rebuttable presumption that individuals in the above groups are socially and economically disadvantaged. The COUNCIL may, on a case-by-case basis, determine or accept the determination by another USDOT recipient, that individuals who are socially and economically disadvantaged in accordance with 49 CFR 26, Subpart D.

1.4 Counting DBE Participation

In accordance with 49 CFR section 26.55, the COUNCIL will utilize the following guidelines in determining the percentage of DBE participation that will be counted toward the overall DBE goal:

A. If a firm is not currently certified as a DBE in accordance with the standards of subpart D of the regulations at the time of the execution of the contract, the firm's participation toward any DBE goals will not be counted, except as provided in 49 CFR section 26.87(i).

B. The dollar value of work performed under a contract with a firm after it has ceased to be certified will not be counted toward the overall goal.

C. The participation of a DBE subcontractor toward the CONTRACTOR's DBE achievements or the overall goal will not be counted until the amount being counted toward the goal has been paid to the DBE.

D. When a DBE participates in a contract, the value of the work actually performed will be counted as follows:

1. The entire amount of that portion of a construction contract (or other contract not covered by paragraph 49 CFR part 26.55) that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies, and equipment the DBE subcontractor purchases or leases from the CONTRACTOR or its affiliate).

2. The entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a USDOT-assisted contract, toward DBE goals, provided that the COUNCIL determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

3. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontract work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm will not count toward DBE goals.

E. When a DBE performs as a participant in a joint venture, the COUNCIL will count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.

F. The COUNCIL will count expenditures to a DBE Contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract:

1. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, the COUNCIL will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

2. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which the funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, the COUNCIL will examine similar transactions, particularly those in which DBEs do not participate.

3. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice

for the type of work involved, the COUNCIL will presume that it is not performing a commercially useful function.

4. When a DBE is presumed not to be performing a commercially useful function as provided in this program, the DBE may present evidence to rebut this presumption. The COUNCIL may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

5. The COUNCIL's decisions on matters of whether a DBE performs a commercially useful functions are subject to review by the concerned operating administration (FTA), but not subject to an administrative appeal to USDOT.

G. The COUNCIL will use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

2. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on its contract.

3. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.

4. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.

5. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by the DBE.

6. For purposes of this section, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for the use of the leased truck. Leased trucks must display the name and identification number of the DBE.

H. The COUNCIL will count expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:

The COUNCIL will count 100% of the cost of the materials or supplies toward DBE goals if the materials or supplies are obtained from a DBE manufacturer. For purposes of this paragraph, a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described in the specifications.

The COUNCIL will count 60% of the cost of the materials or supplies toward DBE goals if the materials or supplies are purchased from a DBE regular dealer. For purposes of this section, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold to or leased to the public in the usual course of business.

I. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

J. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating, or maintaining a place of business as provided in 49 CFR section 26.55(e)(2)(ii) if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease and not on an ad hoc or contract-by-contract basis.

K. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of 49 CFR section 26.55(e)(2).

L. With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, the COUNCIL will count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE goals, provided that the COUNCIL has determined the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. The COUNCIL will not count any portion of the cost of the materials and supplies themselves toward DBE goals, however.

Part 2: BID/AWARD PHASE ACTIVITIES

2.1 Requirement of Good Faith Efforts

Bidders are advised that award of this contract is conditioned on meeting the requirements of 49 CFR section 26.53, requiring Bidders to make good faith efforts to meet the DBE participation goal specified in section 1.2 of this document. Bidders are required to demonstrate good faith efforts to meet the goal by either:

documenting the participation of specific DBEs to meet the goal, or

documenting adequate good faith efforts to meet the goal, even if the efforts were not successful in obtaining sufficient DBE participation to meet the goal.

2.2 Bid Submittal Requirements

A. All bids MUST include a properly completed **Document 00485A Disadvantaged Business Enterprise Information and Certifications** form. The form consists of Parts A and B. Part A must be completed by every Bidder. Part B must be completed by the Bidder if required in accordance with the following instructions.

B. In Part A of the form, the Bidder must list all firms, if any, whose participation is proposed to be credited toward meeting the DBE goal and the following information regarding each such firm:

1. The name and address of each DBE prime contractor, joint venture partner, subcontractor, trucker or supplier that the bidder intends to credit toward the DBE goal. The complete legal business name as used for DBE certification shall be identified on the form.

2. A description of how each DBE firm will participate in this contract. The DBE goal may be satisfied by a commitment to DBE participation in the contact as a prime contractor, joint venture partner, subcontractor, trucker or supplier.

3. The state in which the DBE is currently certified.

4. A description of the work to be performed or materials to be supplied by each DBE.

5. The estimated dollar value of each DBE's participation in the contract.

6. The estimated percent of the total bid for each DBE. The percentage allocated for each DBE must be in accordance with the provisions for performing a commercially useful function, as required by 49 CFR section 26.55.

C. All DBE firms which are listed in Part A of **Document 00485A Disadvantaged Business Enterprise Information and Certifications** must, as of the date bids are due, be:

1. certified by the COUNCIL as a DBE; or
2. certified by any other United States Department of Transportation (USDOT) recipient and then certified by the COUNCIL within 30 days of the execution of the contract; or
3. included on the **Metropolitan Airports Commission (MAC)/Minnesota Department of Transportation (MnDOT)/Metropolitan Council Disadvantaged Business Enterprise (DBE) Directory**. All of the firms on this listing shall be considered "currently certified" for the purposes of bid submittal. This listing is available from the Council and can also be found at the following website:

http://www.metrocouncil.org/doing_business/dbeinfo.htm

The provisions of 49 C.F.R., part 26.87 (relating to removal of a DBE's eligibility) apply to all firms credited under this paragraph.

If no DBE participation is proposed, the Bidder must indicate so on the form. Part A of the form includes a Certification of DBE Participation and Good Faith Efforts which must be filled in and signed on behalf of the Bidder in all cases.

D. Part B of **Document 00485A Disadvantaged Business Enterprise Information and Certifications** must be completed by the Bidder if the information provided in Part A of the form indicates either:

no proposed DBE participation, or

proposed DBE participation at less than the DBE goal established above;

In Part B, the Bidder must provide information regarding its good faith efforts to meet the DBE goal. Part B also includes a certification which must be filled in and signed on behalf of the Bidder if completion of Part B is required.

E. Failure to submit a properly completed **Document 00485A Disadvantaged Business Enterprise Information and Certifications** form with the bid will result in no further consideration of the bid by the COUNCIL.

Part 3: POST-BID/PRE-AWARD REVIEW

3.1 Post-Bid Submittals

A. After the opening of bids but before award of the contract, the COUNCIL will notify the three apparent low Bidders that they are being considered for award. Each Bidder so notified must, within 7 days from receipt of the notice, meet the following additional requirements:

3. The Bidder must submit written confirmation from each DBE included in the Bidder's **Document 00485A Disadvantaged Business Enterprise Information and Certifications** form confirming the DBE participation in the project.
4. The bidder must submit any clarifications or details requested by the COUNCIL regarding: a) its pre-bid efforts to obtain DBE participation, and/or b) the good faith efforts information submitted with the bid.

B. Failure to comply with a post-submittal requirement may result in no further consideration of the bid by the COUNCIL.

3.2 Good Faith Efforts Determination

In accordance with 49 CFR section 26.53 and Appendix A thereto, the following guidelines will apply to a good faith efforts determination.

A. The bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of 49 CFR Part 26 which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful. The COUNCIL's DBE Liaison Officer will determine whether a bidder made sufficient good faith efforts to meet the goal in accordance with the guidelines set forth in 49 CFR section 26.53, and Appendix A thereto. Compliance will be determined on a case-by-case basis, based on a review of documentation of the following types of activities:

1. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

2. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the bidder might otherwise prefer to perform these work items with its own forces.

3. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

4. Negotiating in good faith with interested DBEs. The bidder has the responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

5. A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a bidder to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Bidders are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

6. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The DBE's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for rejection or non-solicitation of bids in the bidder's efforts to meet the contract goal.

7. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required for this contract.

8. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services.

9. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state and Federal offices of minority/women business assistance; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

10. The performance of other bidders in meeting the contract goal. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, the COUNCIL may reasonably raise the question of whether, with additional reasonable efforts; the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, the COUNCIL may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.

11. Other relevant factors or types of efforts made by the bidder including, without limitation, commitments to use subcontractors won are certified as a Minority Business Enterprise or a Women Business Enterprise by Minnesota cities of counties, even if these subcontractor are not certified as DBEs.

B. If the COUNCIL determines that the apparent successful bidder has failed to meet the Good Faith Efforts requirements of this program, it will, before contract award, provide the bidder an opportunity for administrative reconsideration. The bidder will have the opportunity to:

1. Provide a written documentation or argument concerning the issue of whether the bidder met the goal or made adequate good faith efforts to do so; and

2. Meet in person with the COUNCIL or its reconsideration official to discuss the issue of whether the bidder met the goal or made adequate good faith efforts to do so.

C. The COUNCIL will send the proposer a written decision on its reconsideration, explaining the basis on which the determination was made whether it met the goal or made adequate good faith efforts to do so.

D. In accordance with 49 CFR section 26.53, the result of the COUNCIL's reconsideration process is not subject to administrative appeal to USDOT or the Federal Transit Administration.

E. Determinations and reconsiderations regarding failure to meet DBE requirements for this contract are handled in accordance with the provisions of this section 3.2 and are not subject to the protest procedures in **Document 00490 Protest Procedures**.

Part 4: POST-AWARD REQUIREMENTS

Additional post-award requirements relating to Disadvantaged Business Enterprise are contained in **Document 00710 Supplemental Conditions for FTA –Funded Projects.**

END OF DOCUMENT

DOCUMENT 00485A

DISADVANTAGED BUSINESS ENTERPRISE INFORMATION AND CERTIFICATIONS

Bidder Company Name: _____

Contract # _____ **Project Name**: SAMPLE

(NOTE: This form MUST be submitted with each bid. Part A of this form must be completed by every Bidder. Part B must be completed if required in accordance with Document 00485 Disadvantaged Business Enterprise Subcontracting Policy and Procedure, and the directions in this form.)

PART A

Check ONE of the following:
___ **No DBE participation is proposed on this project**
___ **The following DBE participation is proposed on this project:**

Firm Name (Legal business name used for DBE certification)	**Address**	**How will firm participate?** **(Prime; Joint Venture; Partner; Subcontractor; Trucker or Supplier)**	**State(s) in which currently certified**	**Description of work**	**E doll pa**

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(Form continued on next page. Use copies of page 1 of this form if additional space is needed to list proposed DBEs and attach such copies to the form.)

CERTIFICATION OF DBE PARTICIPATION AND GOOD FAITH EFFORTS

On behalf of the Bidder identified below, I certify that:

(check ONE of the following)

___ No DBE participation is proposed on this project.

___ Bidder is committed to use the DBE subcontractor(s) listed in this form on this project at the stated percentage(s).

I further certify that I have read the DBE requirements in **Document 00485 Disadvantaged Business Enterprise Subcontracting Policy and Procedure** and applicable federal regulations cited therein. I further certify that the Bidder has made appropriate efforts to comply with the DBE requirements for this contract by making good faith efforts to meet the DBE goal specified in **Document 00485 Disadvantaged Business Enterprise Subcontracting Policy and Procedure**. I am authorized on behalf of the Bidder to submit this certification to the Council. This certification is a material representation of fact on which the Council may rely in awarding the contract.

Bidder Name: _____

By: _____ Date: _____

Name:_____ Title:_____

Note: If the above certification indicates 1) no DBE participation, or 2) DBE participation at less than the DBE goal established in Document 00485 Disadvantaged Business Enterprise Subcontracting Policy and Procedure, the Bidder must complete the following Part B of this form.

PART B

THE FOLLOWING GOOD FAITH EFFORTS WERE TAKEN IN ORDER TO MEET THE DBE PARTICIPATION GOAL FOR THIS CONTRACT (use additional sheets if necessary to supplement the responses and attach them to this form):

(Note: the following is a list of types of actions which will be considered by the Council as a part of the Bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.)

1. Describe Bidder's efforts to include DBEs on solicitation lists and to solicit through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the project. (Include information indicating whether the solicitation of interest took place within sufficient time to allow the DBEs to respond to the solicitation and/or if Bidder took appropriate steps to follow up the initial solicitations.)

2. Describe Bidder's efforts to select portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goal would be achieved. (This includes, where appropriate, breaking out project work items into economically feasible units to facilitate DBE participation, even when the Bidder might otherwise prefer to perform these work items with its own forces; and establishing delivery schedules which will encourage DBE participation.)

3. Describe Bidder’s efforts to provide interested DBEs with adequate information about the plans, specifications, and requirements of the Invitation for Bids in a timely manner to assist them in responding to a solicitation:

4. Describe Bidder’s efforts to negotiate in good faith with interested DBEs. (Include information on the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and information as to why additional agreements could not be reached for DBEs to perform the work.)

5. Describe Bidder’s efforts to avoid rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. (The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.)

6. Describe Bidder’s efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the Invitation for Bids:

7. Describe Bidder’s efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services:

8. Describe Bidder's efforts to effectively use the services of available disadvantaged community organizations; disadvantaged contractors' groups; local, state, and federal disadvantaged business assistance offices; and other organizations to provide assistance in the recruitment and placement of DBEs, including the U.S. Department of Commerce's Minority Business Development Agency (MBDA):

9. Describe other factors or types of efforts used by Bidder in its good faith effort to meet the project DBE goal:

BIDDERS must sign the following certification and attach all documentation of good faith efforts.

CERTIFICATION

On behalf of the Bidder identified below, I certify that I have read the DBE requirements in **Document 00485 Disadvantaged Business Enterprise Subcontracting Policy and Procedure,** and applicable federal regulations cited therein. I further certify that the Bidder has made appropriate efforts to comply with the DBE requirements for this contract by undertaking the efforts documented in this certification. I have enclosed or attached all documentation of the Bidder's efforts to comply with the DBE requirements, on which the Council may rely in determining whether the Bidder has met the good faith efforts requirements. I am authorized on behalf of the Bidder to submit this form and documentation to the Council. This certification is a material representation of fact on which the Council may rely in awarding the contract.

Bidder Name: _____ Date: _____

By: _____

Name: _____

Title: _____

APPENDIX 7 : Managing Federally Funded Projects

A Project Manager's Guide
March 2008

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Responsibilities of the Recipient

Recipient
The Recipient is responsible for administration and management of the grant in compliance with the grant agreement and applicable Federal Transit Administration (FTA) circulars and regulations. The grantee is also responsible for funds that "pass through" to a Subrecipient.

1. Primary responsibility lies with the Metropolitan Council ("Council") as the Recipient.
2. FTA annually updates Master Agreement.
3. FTA annually requires renewal of the required Certifications and Assurances.

Significant participation by a Subrecipient
Although the Recipient may delegate any or almost all Project responsibilities to one or more Subrecipients, the Recipient agrees that it, rather than the Subrecipient, is ultimately responsible for compliance with all applicable federal laws, regulations, and directives, except to the extent that FTA determines otherwise in writing.

Significant participation by a Third Party Contractor
Although the Recipient may enter into a Third Party Contract in which the Third Party Contractor agrees to provide property or services in support of the Project, or even carry out Project activities normally performed by the Recipient (such as in a turnkey contract), the Recipient agrees that it, rather than the Third Party Contractor, is ultimately responsible to FTA for compliance with all applicable federal laws, regulations, and directives, except to the extent that FTA determines otherwise in writing.

Significant participation by a lessee of a Recipient
Although the Recipient may lease Project property and delegate some or many Project responsibilities to one or more lessees, the Recipient agrees that it, rather than any lessee, is ultimately responsible for compliance with all applicable federal laws, regulations, and directives, except to the extent that FTA determines otherwise in writing (newly added in FFY 2007 Master Agreement as part of SAFETEA-LU clarification).

Brief Terms and Definitions
The following is a brief list of terms and definitions important to understanding the federal grants process. An expanded list of terms and definitions can be found near the end of this document.

Grants and Awards
Financial award: A grant, contract, or cooperative agreement from external sponsor to conduct a specified project(s). The award carries the sponsor's requirements and expectations that the work conducted will be in accordance with the application and award document. The award can be received from federal, state or local governmental agencies, foundations, non-profit groups, or private enterprises including business and industry.

Metropolitan Council Policy Income/Grants 3-2-2: This policy governs this activity, and states that "the Metropolitan Council may enter into agreements with other governments and organizations which provide income/grants to the Council which are consistent with the Council's mission and priorities. Grant applications must be approved by the Council through the normal budget process or on a case-by-case basis."

FTA Definitions

Recipient: The entity that receives federal assistance directly from FTA to support the Project. The term "Recipient" includes each FTA "Grantee" that receives federal assistance directly from FTA through a Grant and each FTA Recipient that receives federal assistance directly from FTA through a Cooperative Agreement.

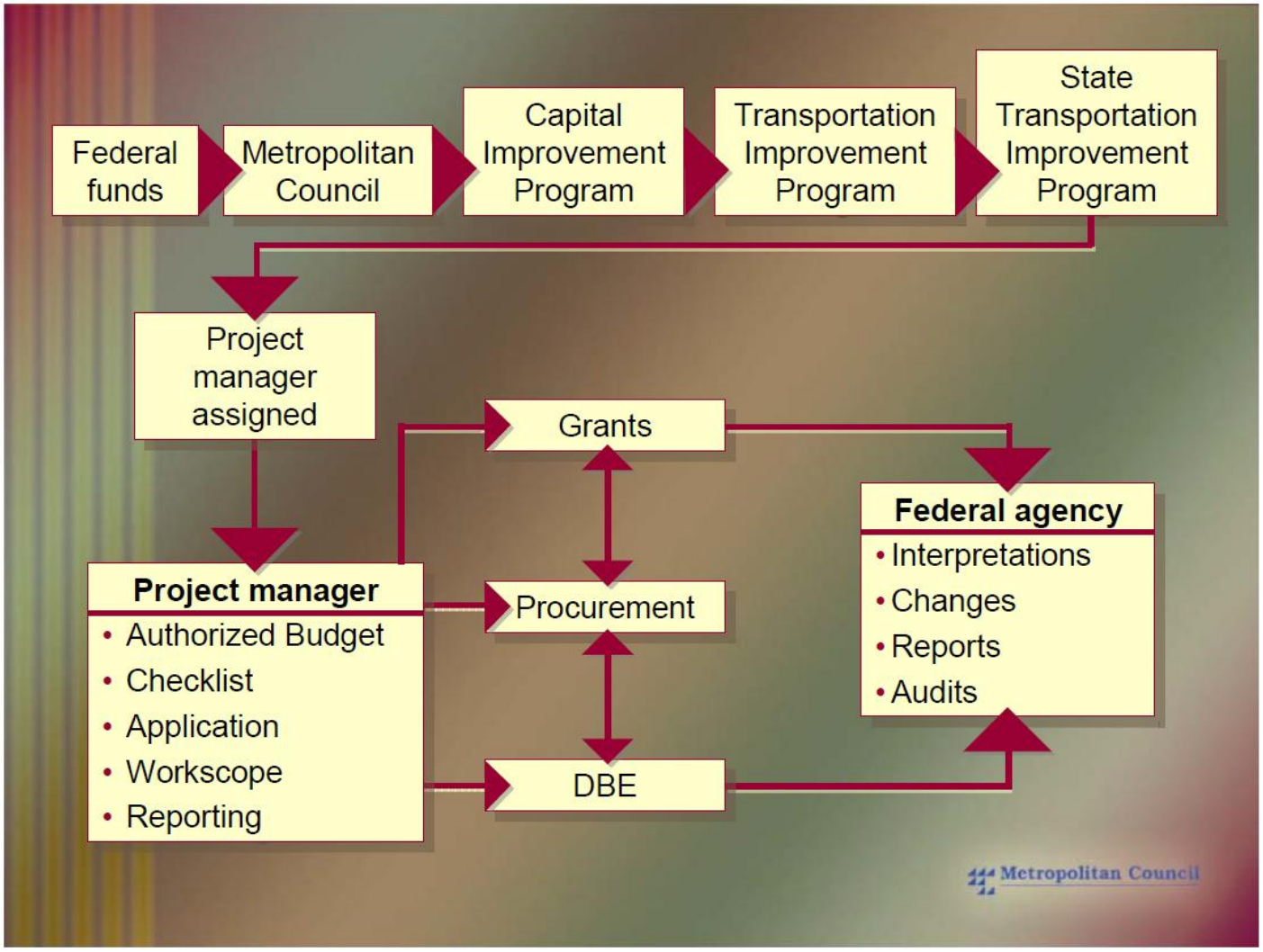
Subrecipient: Any entity that receives federal assistance awarded by an FTA Recipient, rather than by FTA directly. The term "Subrecipient" also includes the term "Subgrantee," but does not include "Third Party Contractor" or "Third Party Subcontractor."

Subagreement: An agreement through which a Recipient awards federal assistance derived from FTA to a Subrecipient as defined below. The term "Subagreement" also includes the term "Subgrant," but does not include the term "Third Party Subcontract."

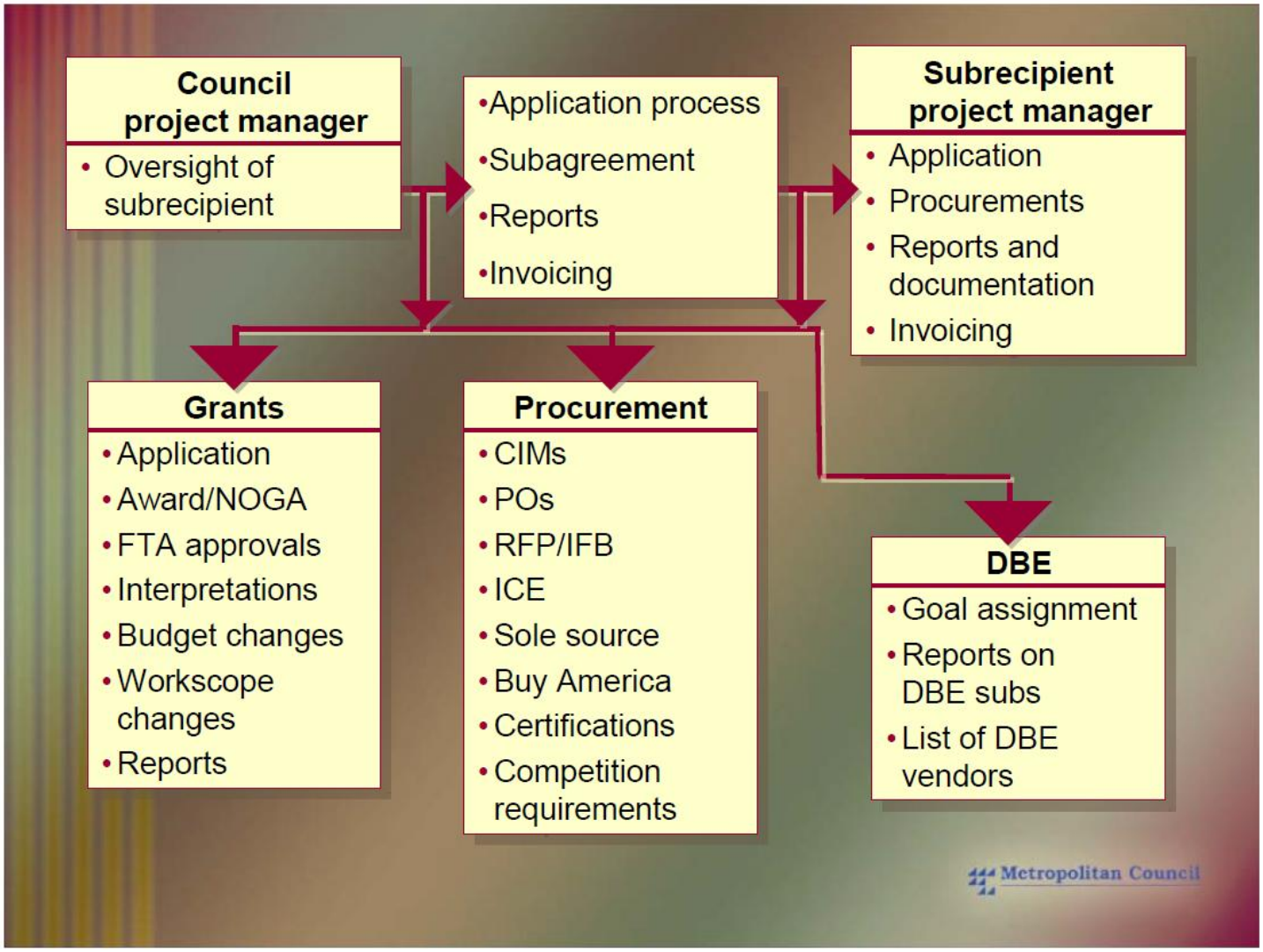
Third Party Contract: A contract or purchase order awarded by the Recipient or Subrecipient to a vendor or contractor, financed in whole or in part with federal assistance awarded by FTA.

Third Party Subcontract: A subcontract at any tier financed in whole or in part with federal assistance originally derived from FTA that is entered into by the Third Party Contractor or third party subcontractor. See the end of this document for a more detailed list of terms and conditions

Using Federal Funds (FTA) at the Council



Subrecipient Process Detail



Projects Using Federal Funding

Federal Transit Administration (FTA)

1. Predominant source of federal funds.
2. Subject to annual FTA Master Agreement and Certifications and Assurances.
3. Fund appropriations are received on an annual basis.
4. Includes Congestion Mitigation Air Quality (CMAQ), NewStarts, 5309 Bus Capital, Job Access Reverse Commute (JARC), New Freedoms, etc., as well as projects to be funded by 5307 formula and other 5309 discretionary (earmarks) appropriations.

Other Federal Sources

1. State Department of Public Safety (flow through)
2. Homeland Security
3. National Institutes of Health (NIH)
4. Occupational Safety and Health Administration (OSHA)
5. Federal Highway Administration (FHWA)

Metropolitan Council Capital Improvement Program (CIP)

Management recommends and the Council annually approves a six year listing of planned capital projects. The CIP is the basis for new capital program authorizations and for projects to be identified for FTA funding.

Transportation Improvement Program (TIP)

A list of projects selected from the Capital Improvement Program (CIP) that will use federal funds. The TIP is approved and sent to MnDOT for inclusion in the State Transportation Improvement Program (STIP); the STIP is sent to FTA and the Federal Highway Administration (FHWA) for approval.

Authorized capital program

Reflects those projects from the CIP that have been approved by inclusion in the capital budget to receive and expend funds. Project funding cannot be accepted until the capital budget recognizes the authority for the project.

Local match

1. Regional Transit Capital (RTC) or other local funds are used to meet federal match requirements.
2. Farebox revenue CANNOT be used as match for FTA.
3. Only the net project cost is used to calculate the federal participation.
4. Match amounts can vary.

Application

1. Grantees must complete an application for federal funds before the funds are available for use on a project.
2. Projects funded from CMAQ, Surface Transportation Program (STP) and Transit Enhancement (TE) funds are approved for FHWA dollars called “flex” funds. These funds are held by FHWA and are intended for use for highway or transit projects. Transit projects that are awarded by FTA require these funds to be transferred from FHWA to FTA before an application can be submitted.
3. Apportionments of formula funds (5307) and all other FTA or FHWA funds are received annually and are available for use in an application only after the annual apportionment is made.

4. Internal application forms and completion of environmental documentation must be completed for the application.
5. Transportation Electronic Award Management (TEAM) system will be loaded with the application information and submitted to FTA for processing. This is a 60 to 90 day approval process.

Federal Grant Application and Award Process

Project Manager Checklist starts application process

1. Project is listed in the TIP/STIP as required.
2. Templates are provided to Project Manager from Grants staff.
3. The Council Project Manager sends a form letter to any Subrecipient(s) for flow through projects.
4. Council staff must assure that the Council's Authorized Capital Budget includes, or will be amended to add, authority to include the grant amount.
5. Local match must be available.
6. The Project Manager must provide the project description, budget detail and milestone information.
7. Environmental documentation.
8. Completed forms are returned to Grants.

Subrecipient application

1. The Council Project Manager initiates the application process and sends a form letter to Subrecipient organization(s).
2. Follow the same procedure as above.

TEAM system application

Grants management staff will prepare the application in FTA's TEAM system.

1. Project Scope will be reflected in Federal Budget Categories called Activity Line Items (ALIs) to provide maximum flexibility for rebudgeting.
2. If there are questions, Project Manager will be contacted for assistance as needed for budget, fleet, project description, timelines, etc. as the application is processed.
3. The application process includes the completion and approval of environmental documentation, including:
   a. Categorical Exclusions
      1. CE II(c) – no construction; includes planning, fencing, vehicle acquisition, landscaping, rehab etc.
      2. CE II(d) – construction activity with minimal impact but documentation is needed to justify.
   b. Environmental Assessments – actions in which the significance of the environmental impact is not clearly established.
   c. Environmental Impact Statements (EIS): Actions that significantly affect the environment.
   d. Other related approvals may be needed when a project makes use of public park land or sites of historic significance.

Note that the Grants intranet site contains information and forms for CEII(d) and other information.

4. When the application is complete, a copy of the TEAM application is sent to the Project Manager for review and concurrence before it is submitted to FTA.

5. FTA staff reviews the content for accuracy and regulatory compliance.

a. The Regional FTA office reviews projects for environmental clearances, project scopes and completeness of information.
b. DOL approvals are required on all applications.
c. The Regional FTA office forwards the application to the Washington D.C. office for approval.
d. After FTA approves the grant, the Met Council's Regional Administrator or designee must execute it BEFORE the grant is awarded and money is available for disbursement.
e. The Met Council makes a good faith effort to avoid the commitment of funding prior to receipt of the federal award, including obligating funds for procurements or for Subagreements. Prior approval from whom? is needed for advance spending and in some cases is not allowable.

Notice of Grant Award (NOGA)

The Grants management staff will notify the Project Manager, accounting and other appropriate staff of the receipt of the award by means of an internal document called a Notice of Grant Award (NOGA). See Appendix E.

Subrecipient Agreement/Award Process

Subrecipient Agreement

1. The federal award is received.
2. The NOGA is issued.
    a. Capital budget authorization.
    b. Council Project Manager requests subrecipient agreement from the Office of General Counsel.
3. Cost reimbursement:
    a. Invoice only expenses actually incurred in direct support of the project.
    b. No advances are allowed.
4. The agreement flows through all applicable federal requirements, including:
    a. procurement;
    b. Disadvantaged Business Enterprise (DBE);
    c. program-specific concerns;
    d. prior approvals;
    e. reporting requirements; and
    f. invoicing.
5. Work scope: identifies what activity is allowable.
6. Approved budget: identifies the allowable costs for the work scope.

Subrecipient Administration of Award

The Subrecipient is responsible for adhering to the work scope and budget. All changes to the work scope require prior written approval from the Council's Grants staff. Prior approvals are required for some activities even if they are included in the work scope and budget. Subrecipients apply to Council staff for prior approval in writing for the following proposed budget revisions. See Award Activity for more detail on prior approvals.

Award Activity

Federal Procurement Basics

These procurement basics represent the minimum requirements to be used by recipients and subrecipients when purchasing goods and services with Federal funds. Recipients and subrecipients may follow their own procurement requirements as long as their requirements are more restrictive than these basics.

All procurements must be reasonable and made for goods, services, and/or items needed for the direct completion of the project work scope.

Micro purchases (procurements under $2,500) require:

1. Micro-purchases may be made without obtaining competitive quotations if the recipient or subrecipient determines that the price to be paid is fair and reasonable...

2. Micro purchases of construction services valued at greater than $2,000 require the application of Davis- Bacon Act federal prevailing wage rates.
3. All micro purchases for architectural and engineering services require compliance with requirements of the Brooks Act.
4. Minimal documentation is required: (a) a determination that the price is fair and reasonable and (b) how this determination was derived.

Purchases greater than $2,500 and less than $25,000 require:

1. An Independent Cost Estimate (ICE): a documented analysis of the estimated cost of the item or services, based on historic costs, vendor information, or other reasonable methods.
2. Use of the Disadvantaged Business Enterprise list to determine if there is a certified DBE source for the goods or services.
3. Three written or verbal quotes.
4. A documented price analysis, using the ICE as a basis of comparison.
5. The Council's FTA clauses must be attached to the purchase order. If you have question, please call your Project Manager.

Purchases greater than $25,000 and less than $50,000
Require the same process as above, except the quotes must be written.
Purchases of $50,000 and greater require approval from Council staff.
Contact the Council's Project Manager for further guidance.

1. A Contract Initiation Memo (CIM) or Subrecipient Contract Initiation Memo (SCIM) is required for all purchases of this value.
2. The Subrecipient Project Mangers work through the Council Project Manager for approvals/reviews.
3. Completed CIMs or SCIMs are forwarded by the Council Project Manager for required approvals from the Council's Grants, Purchasing and Office of Diversity and Equal Opportunity (ODEO). Once approved, the solicitation can be issued
4. Draft solicitation documents are forwarded by the Council's Project Manager to the Council's Purchasing and ODEO for approval.
5. The solicitation is issued.
6. Solicitation responses are forwarded by Council's Project Manager to Council's Purchasing and ODEO for approval and DBE compliance check before the award of a contract.
7. Copies of executed Metropolitan Council and Subrecipient contracts are kept by Council's Project Manager and Council Purchasing.
8. Metropolitan Council and Subrecipient Contract changes require prior review and approval by the Council's Project Manager, Council Purchasing and ODEO.

Contract Changes

1. Every change order and contract amendment requires that a cost or price analysis be performed to determine if the price change is fair and reasonable.

2. A change order valued at greater than 10% of the original value of the purchase order is considered to be a separate purchase, and must be supported by an appropriate competitive process or be authorized as a sole source purchase.

3. An amendment to a non-construction contract valued at greater than 10% of the original value of the contract is considered to be a separate purchase, and must be supported by an appropriate competitive process or be authorized as a sole source purchase.

4. Construction change orders valued at less than 5% or the original value of the construction contract are considered to be minor adjustments to the contract.

5. Change orders that increase the total amount of the construction contract by no more than 5% of the original contract value or $50,000 (whichever is greater), may be authorized by staff with appropriate Construction Change Order Signature Authority.

6. Change orders that increase the total amount of the construction contract by more than 5% of the original contract value or $50,000 (whichever is greater) must be approved by the policy board.

7. Use of sole source procurement for change orders and contract amendments must be done with care on an exception basis only and must be justified for each occurrence. Sole source authorization must be obtained prior to ordering the goods or services except in a declared public emergency.

Charging expenses against a grant

1. Project managers should review the NOGA to identify which expense lines have been established.

2. Subrecipient Project Managers should review the approved budget in the Subrecipient Agreement

3. The Contract Initiation Memo (CIM) or Subrecipient CIM must reference the grant number and verify availability of funds.

4. Work orders or any form or method used to initiate a charge against a grant should refer to the funding source; Project Managers should check to see if funds are available.

5. Changes to the existing budget

   Budget revision: A transfer of funds within an approved grant budget, not involving a change in the grant, scope, or terms and conditions.

   Budget revision without prior FTA approval:
   a. Fund transfers within scope and between scopes of the same matching ratio, if the amount is under 20 percent of the most recently FTA-approved budget or, for planning grants, if the amount is under 30 percent.
   b. Adding activities that are within scope.

   Budget Revision with prior FTA approval and limitations:
   a. Add, delete or modify grant work tasks consistent with the currently approved Unified Planning Work Program or State work program;
   b. Transfer funds within an approved budget that cumulatively exceeds 20 percent of the budget most recently approved by FTA but does not exceed 30 percent of planning grants, and FTA's share of grant is more than $100,000. This would include changes totaling 30 percent or more at the state (cumulative) level for metropolitan planning grants (49 U.S.C. Section 5303), as well as at the state level for statewide planning (49 U.S.C. Section 5313(b));
   c. Increase or reduce the number of units to be purchased or constructed where the change does not exceed the greater of two units or 20 percent of the approved grant scope;
   d. Change the size of physical characteristics of the project scope items; and/or
   e. Transfer funds between operating, capital/planning scopes; or scopes with different matching ratios.

f. Formal amendments to grants – FTA approval required:

Administrative amendment: An amendment normally initiated by FTA that is needed to change or clarify the terms, conditions or provisions of a grant contract but does not change the scope, amount or purpose of the grant. An administrative amendment is used to modify a grant contract for such purposes as to comply with changes required by FTA law, to change the year or type of funds obligated for a grant, to transfer equipment from one grantee to another or to reflect a change in the grantee's name: all programs.

Grant amendment: A change in the scope of a grant or the federal participation.

a. A change that exceeds the greater of two units or 20 percent of the units to be purchased or constructed under an approved grant scope;
b. A change to add a project scope, if not previously included as a contingency project in the budget, or to add or delete a project scope which changes the grant scope; and/or
c. Any other changes that alter the scope of a grant.

Other expenditures requiring approvals

- Buy America Waiver
- Acquisition of Right of Way (ROW) over $250,000;
- Disposition of property (real or equipment);
- Incidental use of transit property; and/or
- Other project specific requirements.
- Make no assumptions on any changes.

Billing and invoicing

The Subrecipient submits an invoice at least quarterly on a cost reimbursement basis. All invoices for reimbursement must contain the standard certification that all attached invoices are for a reasonable price, based on market prices offered by the vendors to the general public. Refer to the invoice form sample provided in this document.

Reporting

1. Milestone/progress reports: The requirement for milestone/progress reports applies to all FTA grants. Report forms are sent from Grants to Project Managers with instruction and deadline for completion.

2. Financial Status Reports (FSR): FTA grant Recipients are to submit financial information through TEAM. This report should be provided concurrently with the milestone/progress reports.

3. Final project reports: Final reports are due within 60 days of project completion and must include a financial reconciliation and final work scope detail.

4. Disadvantaged Business Enterprise (DBE) Quarterly Progress Reports: As with financial reports, grantees may submit these reports (required by FTA Circular 4716.1A) with other quarterly reports if grantees are furnishing paper forms.

Appendix A: More Terms and Definitions

Other related acronyms and terms
C&As: Certifications and Assurances

CIP: Capital Improvement Program

CE: Categorical Exclusion (Environmental Document)

CMAQ: Congestion Mitigation Air Quality Program

DBE: Disadvantaged Business Enterprise

DOT: Department of Transportation

EA: Environmental Assessment

EIS: Environmental Impact Statement

FG: Fixed Guideway

FTA: Federal Transit Administration

FWHA: Federal Highway Administration

JARC: Job Access Reverse Commute Program

MPO: Metropolitan Planning Organization

NOGA: Notice of Grant Award

NTD: National Transit Database

SHPO: State Historic Preservation Office

STIP: State Transportation Improvement Program

TE: Transit Enhancement

TEAM: Transportation Electronic Award Management (incorporates TIP)

TIP: Urban Area Transportation Improvement Program

Definitions:
5307 Funds Formula: Annual appropriation of funds based on NTD service levels and sometimes referred to as NTD funds.
5309 Funds: Earmarks or legislative appropriations based on requests by the organization to the federal legislator.
Authorized Budget: Projects from the Capital Improvement Program that have been given spending authority in the capital budget.
Capital Improvement Program (CIP): Five-year plan of projects based on cash flow.
Categorical Exclusion (CE): There are two types.

- *CE II(c):* If the project as defined under this category indicate no other documentation is required.
- *CE II(d)'s* require documentation that demonstrates that the specific conditions or criteria for these CE's are satisfied and that significant environmental effects will not results. This documentation must be prepared and submitted with the rest of the grant application.

Certifications and Assurances (C&As): Submitted to FTA annually to self-certify proficiency and compliance in 23 areas. The Council certifies to 19 of the 23 of the areas, with four not being applicable to the urban area program.
Earmarks: Non-formula, based on a legislative request.
Environmental Documentation: Based on the type of program and the amount of construction involved, documentation varies from a Categorical Exclusion to a full Environmental Impact Statement. At the time of application, all projects are reviewed to decide what document is appropriate, if any.
Formula Funds: Based on service, population or some countable statistic that is then used to determine what level of funds are to be received.
Grant Application (FTA): Formal request to FTA for obligation of funds to a named project in the STIP.
Job Access Reverse Commute (JARC): Formula Funds received annually, based on census figures.
Master Agreement: FTA's annual agreement that applies to all transit grants nationwide. It is a blanket agreement that covers all programs administered by FTA and can be found on the website below.
Match: The amount of funding that the recipient must contribute in support of the funded project.
National Transit Database (NTD): Mechanism for reporting service levels and other information on transit in the Metropolitan Seven County Area.
New Freedom: Formula Funds received annually, based on census figures.
New Starts: Earmarks made for major capital investments – over $75 million.
State Transportation Improvement Plan (STIP): Improvement plan for the entire state; includes TIP.
Total Eligible Cost: The cost of the project including federal dollars and local Match.
Transportation Electronic Award Management (TEAM): FTA's electronic award processing and management system.
Transportation Improvement Plan for the Metropolitan Area (TIP): Four years' of projects listed by year, based on state fiscal year.

Appendix B: Disadvantaged Business Enterprise Program Definitions

In accordance with 49 CFR section 26.5, the following definitions apply to the Metropolitan Council's DBE program.

Affiliation: As defined in the Small Business Administration (SBA) regulations, 13 CFR part 121:
Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly:

- One concerns controls or has the power to control the other;
- A third party or parties controls or has the power to control both; or
- An identity of interest between or among parties exists such that affiliation may be found.

In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affi liates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of arms in the DBE program.

Affirmative Action: Septic and positive activities undertaken by the Metropolitan Council and its contractors to eliminate discrimination and its effects, to ensure nondiscriminatory results and practices in the future, and to involve disadvantaged business enterprises fully in contracts and programs funded by the DOT.

Alaska Native: A citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

Alaska Native Corporation: Any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.).

Appeal: A formal filing by a business entity who has been denied certification by the Metropolitan Council as a Disadvantaged Business Enterprise (DBE).

Applicant: One who submits an application, request, or plan to be approved by a departmental official or by a primary recipient as a condition of eligibility for DOT financial assistance; and application means such an application, request, or plan.

Challenge: A formal filing by a third party to rebut the presumption that a particular business meets the definition of DBE.

Commercially useful function: Work performed by a DBE firm in a particular transaction that in light of industry practices and other relevant considerations, has a necessary and useful role in the transaction, i.e., the firm's role is not a superfluous step added in an attempt to obtain credit toward goals. If, in the Metropolitan Council's judgment, the firm (even though an eligible DBE) does not perform a commercially useful function in the transaction, no credit toward the goal may be awarded.

Compliance: The condition existing when a recipient or contractor has correctly implemented the requirements of the program.

Contract: A legally binding relationship or any modification thereof obligating the seller to furnish supplies or services, including construction, and the buyer to pay for them.

Contracting opportunity: Any decision by the Metropolitan Council or its contractors to institute a procurement action to obtain a product or service commercially (as opposed to intergovernmental actions).

Contractor: One who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program covered by this part; and includes lessees.

DBE Directory: The Metropolitan Council's list of Certified and Denied Firms which is used by the Metropolitan Council and its contractors to identify DBE potential prime and subcontractors and suppliers.

DBE Liaison Officer: The official designated by the head of the department element to have overall responsibility for promotion of DBE participation.

Department of Transportation, or DOT: The U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHA), the Federal Transportation Agency (FTA), and the Federal Aviation Administration (FAA).

Disadvantaged Business Enterprise (DBE): A for-profit small business concern:
that is at least 51% owned by one or more individuals who are both socially and economically disadvantaged; or in the case of a corporation, in which at least 51% of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

DOT-assisted contract: Any contract or modification of a contract between the Metropolitan Council and a contractor (at any tier) that is funded for in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

Equal Opportunity: The requirements of non-discrimination in employment with regard to race, religion, creed, color, national origin, ancestry, physical handicap, medical condition, age, marital status, or sex, and in accordance with Government Code, Section 12490.

Goal: The annual percentage of DOT-assisted dollars intended to be awarded to DBEs. The annual overall DBE goal is achieved through a combination of race-neutral and race-conscious measures, including contract- specific goals.

Good faith efforts: Efforts to achieve a DBE goal or other requirement of the program, which by their scope, intensity, and appropriateness to the objective, can be expected to fulfill the program requirement.

Immediate family member: Father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law.

Indian tribe: Any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of "tribally-owned concern" in these definitions.

Joint development: The planning and implementation of an income producing real estate development which is adjacent to or physically related to an existing or proposed public transportation facility (e.g. transit station, Park and Ride, or bus facility).

Joint venture: An association of a DBE firm and one or more other firms to carry out a single for profit business enterprise, for which the parties contribute their property, capital, efforts, skills, and knowledge, and in which the DBEs responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital, contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Lessee: A business or person that leases, or is negotiating to lease, property from a recipient or the department on the recipient's or department's facility for the purpose of operating a transportation-related activity or for the provision of goods or services to the facility or to the public on the facility.

Level playing field: The objective of the DOT and Metropolitan Council DBE program; wherein an environment is created to achieve the level of participation by DBEs that would reasonably be expected in the absence of discrimination.

Manufacturer: A business that operates, or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.

Minority: A person who is a U.S. citizen or lawful permanent resident of the U.S. and who is a: "Black American", which includes persons having origins in any of the black racial groups of Africa.

"Hispanic American", which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race.

"Native American", which includes persons that are American Indians, Eskimos, Aleuts or Native Hawaiians.

"Asian-Pacific American", which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;

"Asian-Indian American", which includes persons whose origins are from India, Pakistan, and Bangladesh.

Native Hawaiian: Any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

Native Hawaiian organization: Any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered under the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

Noncompliance: The condition existing when a recipient or contractor has not correctly implemented the requirements of the program.

Operating Administration (OA): Any of the following parts of the DOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The "Administrator" of an operating administration includes his or her designees.

Personal net worth: The net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include the individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

Pre-bid/pre-proposal conference: A meeting held by the Metropolitan Council, prior to the bid/proposal closing date of a particular project, at which prospective bidders/proposers are advised of Metropolitan Council specification requirements, which include DBE provisions.

Pre-bid-pre-construction conference: A meeting held by the Metropolitan Council prior to solicitation at which the prospective prime contractors are advised of its federal compliance obligations and other technical and administrative requirements.

Preponderance of the evidence: The standard of evidence used in DBE eligibility criteria. Pertains to the total context of factual submissions.

Primary Industry Classification: The four-digit Standard Industrial Classification (SIC) code designation which best describes the primary business of a firm. The SIC code designations are described in the Standard Industry Classification Manual.

Primary recipient: A recipient who received DOT financial assistance and passes some or all of this assistance on to another recipient.

Principal place of business: The business location where the individuals who manage the firm's day-to-day operations spend most working hours and where top management's business records are kept. If the offices from which management is directed and where business records are kept are in different locations, the recipient will determine the principal place of business for DBE program purposes.

Program: Any undertaking by a recipient to use DOT financial assistance, and includes the entire activity any part of which receives DOT financial assistance.

Race-conscious measure or program: One that is focused specifically on assisting only DBEs, including women-owned DBEs.

Race-neutral measure or program: One that is, or can be, used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

Rebuttable presumption: A fact related to DBE eligibility criteria that is held to meet the standards of eligibility unless proven otherwise.

Recipient: Any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.

Regular dealer: A firm that owns, operates or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this definition.

Relative availability: The percentage of available DBE firms in light of local circumstances and the number of total available firms.

Secretary: The Secretary of Transportation or his/her designee.

Set-aside: A contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

Small Business Administration (SBA): The United States Small Business Administration.

Small business concern: (with respect to firms seeking to participate as DBEs in DOT-assisted contracts) A small business as defined pursuant to Section 3 of the Small Business Act (13 CFR 121), and regulations implementing it, that does not exceed the cap on gross receipts specified in 49 CFR 26.65(6).

Socially and economically disadvantaged individuals: (for purposes of DOT-assisted projects) Any individual who is a citizen (or lawfully admitted permanent resident) of the United States, and who is:

- Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis;
- Women (regardless of race, ethnicity or origin); or
- Individuals found to be socially and economically disadvantaged by the U.S. SBA pursuant to Section 8(a) of the Small Business Act.

The Metropolitan Council will make a rebuttable presumption that individuals in the above groups are socially and economically disadvantaged. The Metropolitan Council may, on a case-by-case basis, determine or accept the determination by another DOT recipient, individuals who are socially and economically disadvantaged in accordance with 49 CFR 23, Subpart D, Appendix C.

Transit vehicle manufacturer: A manufacturer of vehicles used by FTA recipients for the primary program purpose of public mass transportation (e.g. buses, railcars, vans). The term does not apply to firms that rehabilitate old vehicles or to manufacturers of locomotives or ferryboats. The term refers to distributors of or dealers in transit vehicles with respect to requirements of 49 CFR part 23.67 of the regulations.

Tribally-owned concern: Any concern that at least 51% owned by an Indian tribe as defined in these definitions.

U.S. DOT regulations: (49 CFR part 23 and part 26) Federal rules and regulations published in the Federal Register dated March 31, 1980; amended April 27, 1981; July 21, 1983; October 21, 1987; and March 4, 1999; by the Department of Transportation, Office of the Secretary; entitled “Participation by [Minority Business Enterprise] in Department of Transportation Programs” and codified at Title 49, Code of Federal Regulations, Part 23.

Appendix C: Useful Websites

FTA Websites

FTA Main Website
www.fta.dot.gov/

Metropolitan & Statewide Planning (5303, 5304, 5305)
www.fta.dot.gov/funding/grant/grant_financing_3563.html

Large Urban Cities (5307)
www.fta.dot.gov/funding/grants/grants_financing_3561.html

Clean Fuels Formula Program (5308)
www.fta.dot.gov/funding/grants/grants_financing_3560.html

Major Capital Investments
(New Starts & Small Starts) (5309)
www.fta.dot.gov/funding/grants/grants_financing_3559.html

Rail and Fixed Guideway Modernization (5309)
www.fta.dot.gov/funding/grants/grants_financing_3558.html

Bus and Bus Facilities (5309, 5318)
www.fta.dot.gov/funding/grants/grants_financing_3557.html

Transportation for Elderly Persons and Persons with Disabilities (5310)
www.fta.dot.gov/funding/grants/grants_financing_3556.html

Transit Cooperative Research Program (5313)
www.fta.dot.gov/funding/grants/grants_financing_3552.html

National Research & Technology Program (5314)
www.fta.dot.gov/funding/grants/grants_financing_3551.html

Job Access and Reverse Commute Program (5316)
www.fta.dot.gov/funding/grants/grants_financing_3550.html

New Freedom Program (5317)
www.fta.dot.gov/funding/grants/grants_financing_3549.html

Flexible Funding for Highway and Transit
www.fta.dot.gov/funding/grants/grants_financing_3545.html

FTA Agreements

Master Agreement:
www.fta.dot.gov/documents/13-Master.doc

Certifications & Assurances
www.fta.dot.gov/funding/apply/grants_financing_93.html

FTA Circulars
www.fta.dot.gov/laws/leg_reg_circulars_guidance.html

5010.1C Grants Management
www.fta.dot.gov/laws/circulars/leg_reg_4114.html

4220.1E Procurement
www.fta.dot.gov/ftahelpline/fta_c4220_1.html

9030.1C Formula 5307
www.fta.dot.gov/laws/circulars/leg_reg_4125.html

9300.1A Capital 5309
www.fta.dot.gov/laws/circulars/leg_reg_4128.html

FTA DBE:
www.fta.dot.gov/civilrights/civil_rights_5089.html

FTA Best Practices Procurement Manual:
www.fta.dot.gov/publications/publications_4571.html

Mandatory Procurement Standards Worksheet:
www.fta.dot.gov/fta/library/admin/BPPM/appB19.doc

FTA Procurement System Self-Assessment Guide:

www.fta.dot.gov/ftahelpline/Cover_Self-Assesment_guide.htm

Metropolitan Council Websites

Internet (available to the public) Directory of Certified DBE Vendors:
www.dot.state.mn.us/eeocm/ucpdirectory.html

Councilinfo Intranet (available only to Council staff) Metropolitan Council Procurement Procedures 3-4-3a: councilinfo/policy/finance3_4_3a_procurement_procedure.doc

Grants
councilinfo/grants/index.asp

Appendix D: Assistance for Project Managers

Grants

Susan Stensland, Grants Manager
Phone: 612-349-7603
Email: susan.stensland@metc.state.mn.us

DBE
Wanda Kirkpatrick, Director of Equal Opportunity
Phone: 651-602-1085
Email: wanda.kirkpatrick@metc.state.mn.us

Procurement
Chris Gran, Metro Transit Director of Purchasing
Phone: 612-349-5060
Email: christopher.gran@metc.state.mn.us

Don Pleau, Senior Purchasing Agent
Phone: 612-349-5064
Email: donald.pleau@metc.state.mn.us

Appendix E: Sample Documents