

# MEETING OF THE FUNDING & PROGRAMMING COMMITTEE

Thursday | June 18, 2020

Remote Meeting Via Webex# | 1:30 PM

# Contact Joe Barbeau ([joseph.barbeau@metc.state.mn.us](mailto:joseph.barbeau@metc.state.mn.us)) for access to the video conference.

## AGENDA

### I. CALL TO ORDER

### II. APPROVAL OF AGENDA

### III. APPROVAL OF MINUTES

May 21, 2020, meeting of the Funding & Programming Committee\*

### IV. TAB REPORT

### V. BUSINESS

1. 2020-26: 2020 Regional Solicitation Qualifying Review\* (Joe Barbeau and Steve Peterson Metropolitan Council)

### VI. INFORMATION

1. Freeway System Interchange Study (Tony Fischer) [Executive Summary](#). [One-Pager](#). Presentation

### VII. OTHER BUSINESS

### IX. ADJOURNMENT

\* Additional materials included for items on published agenda.

Full Packet

# Minutes of the REGULAR MEETING OF THE TAC FUNDING & PROGRAMMING COMMITTEE

Thursday, May 21, 2020

**Committee Members Present:** Paul Oehme (Chair, Lakeville), Jerry Auge (Anoka County), Angie Stenson (Carver County), Jason Pieper (Hennepin County), Joe Lux (Ramsey County), Craig Jenson (Scott County), Emily Jorgensen (Washington County), Elaine Koutsoukos (TAB), Cole Hiniker (Metropolitan Council), Anna Flintoft (Metro Transit), Molly McCartney (MnDOT Metro District), Colleen Brown (MnDOT Metro District State Aid), Innocent Eyoh (MPCA), Mackenzie Turner Borgen (MnDOT Bike & Ped), Nancy Spooner-Mueller (DNR), Aaron Bartling (MVTA), Karl Keel (Bloomington), Jim Kosluchar (Fridley), Ken Ashfeld (Maple Grove), Michael Thompson (Plymouth), Nathan Koster (Minneapolis), Anne Weber (St. Paul)

**Committee Members Absent:** John Sass (Dakota County), Robert Ellis (Eden Prairie)

## I. CALL TO ORDER

A quorum being present, Chair Oehme called the regular meeting of the Funding & Programming Committee to order at 1:32 p.m. on Thursday, May 21, 2020. Due to the COVID-19 pandemic, the meeting was held via teleconference.

## II. APPROVAL OF AGENDA

MOTION: It was moved by Keel and seconded by Spooner-Muller to approve the agenda. The roll-call vote served also to take attendance. **Motion carried unanimously** via roll-call vote.

## III. APPROVAL OF MINUTES

MOTION: It was moved by Eyoh and seconded by Lux to approve the minutes of the February 16, 2020, regular meeting of the Funding & Programming Committee. **Motion carried unanimously** via roll-call vote.

## IV. TAB REPORT

Koutsoukos reported on the February 19, 2020, TAB meeting. She also shared facts about the 132 Regional Solicitation applications that were submitted. Just over \$466 million in federal funds were applied for. Keel asked how much funding is available for the 2020 Regional Solicitation. Koutsoukos said that the assumption is \$180 million while waiting for the federal transportation reauthorization bill.

## V. BUSINESS

1. 2020-24: Draft 2021-2024 Transportation Improvement Program

Barbeau said that the draft 2021-2024 Transportation Improvement Program (TIP) is a \$4.7 billion program. Eyoh said that the Minnesota Pollution Control Agency (MPCA) is reviewing the TIP and will include its review as part of the public comment period.

It was moved by Eyoh and seconded by Lux to recommend adoption of the draft 2021-2024 for a public comment period. **Motion carried unanimously** via roll-call vote.

## VI. INFORMATION

1. Regional Solicitation Before and After Study – Part 2 Update

Dave Burns, Metropolitan Council, provided an update on the second Before and After Study. Pieper said that he has found it difficult to find good crash modification factors for bicyclists and pedestrians. Burns said he would pass this onto the consultant.

Koster asked how the study will address greenhouse gas emissions and climate change. Eyoh said that the Regional Solicitation includes emissions analysis. He added that MPCA is working with MnDOT to analyze greenhouse gases in major MnDOT projects. Barbeau said that the study is looking at congestion benefits, which relate to emissions. McCartney said that MnDOT submits a report on Congestion Mitigation and Air Quality emissions reductions to FHWA.

Keel suggested that the analysis of the impact of each scoring measure on Regional Solicitation project selection be replicated. Barbeau said that this analysis has been done for each of the last three solicitations; he added that this can be shared with the consultant. Koutsoukos added that some measures that do not distinguish project scores are beneficial, using multimodal elements as an example because without it, applicants may not accommodate other users.

Hiniker asked whether there is a timeframe for “after” data. Burns replied that the data will come from projects constructed between 2016 and 2019. The consultant will make sure to select data that better reflects normal travel patterns. Steve Peterson, Metropolitan Council, said the “after” data will be from 2019.

## **VII. OTHER BUSINESS**

Joe Lux announced that he is retiring on June 5.

## **VIII. ADJOURNMENT**

**MOTION:** It was moved by Lux and seconded by McCartney to adjourn the meeting. **Motion carried unanimously** via voice vote and the meeting was adjourned.

Joe Barbeau  
Recording Secretary

# Transportation Advisory Board

of the Metropolitan Council of the Twin Cities

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## ACTION TRANSMITTAL No. 2020-26

**DATE:** June 11, 2020

**TO:** TAC Funding and Programming Committee

**PREPARED BY:** Joe Barbeau, Senior Planner (651-602-1705)  
Elaine Koutsoukos, TAB Coordinator (651-602-1717)  
Steve Peterson, Manager of Highway Programs and TAB/TAC Process (651-602-1819)

**SUBJECT:** 2020 Regional Solicitation Qualifying Review

**RECOMMENDED MOTION:** Staff recommendations and proposed motions are shown below.  
All motions are final actions.

**BACKGROUND AND PURPOSE OF ACTION:** Metropolitan Council staff reviewed the qualifying criteria and policy consistency for all project applications submitted in the 2020 Regional Solicitation. Under the TAB policies, the qualifying review decision ends with the TAC Funding & Programming Committee and does not continue to TAC or TAB.

**STAFF ANALYSIS:** The following applications have potential qualifying review issues. All projects not discussed below are qualified.

### **A. QUALIFIED, PENDING SUBMITTAL OF LETTERS OR DOCUMENTATION BY SEPTEMBER 1, 2020**

On April 16, 2020, due to the Covid-19 pandemic, TAB approved allowing applicants to submit support letters after the May 15, 2020, application deadline, with a new submission deadline of September 1, 2020. In addition, other applicants were not able to provide required documentation by the submission date. The proposed action allows the applications described below to be approved pending receipt of a letter or required documentation by September 1, 2020.

#### **1. Snow and Ice Removal Letters**

Qualifying Issue: Within the Multiuse Trails and Bicycle Trails funding category, a qualifying criterion states that “all applications must include a letter from the operator of the facility confirming that they will remove snow and ice for year-round bicycle and pedestrian use.” The following applications did not include any related letter or statement regarding snow and ice removal:

- (14404) Washington County CSAH 32 Trail.
- (14161) Cottage Grove 70th St. Trail.
- (14162) Cottage Grove CSAH 19 Trail.
- (14208) Rogers Interstate 94 Pedestrian Bridge.

#### **2. Provision of Match Letters of Support**

Qualifying Issue: If the applicant expects any other agency or competitive grant program to provide part of the local match, the applicant must include a letter or resolution from

the other agency agreeing to financially participate or provide documentation of the competitive award.

- (14057) Fridley 53rd Avenue Trail Connection. The application indicates that Columbia Heights is contributing to the local match. However, no such letter or documentation from the city was included.
- (14208) Rogers Interstate 94 Pedestrian Bridge. Match shown as “Local Trail Trunk Fund” However, it is unclear what agency is committing to the project match funding.

### **3. Completion of ADA Self-Evaluation**

Qualifying Issue: In order for a selected project to be included in the Transportation Improvement Program (TIP) and approved by USDOT, the public agency sponsor must either have a current Americans with Disabilities Act (ADA) self-evaluation or transition plan that covers the public right of way/transportation, as required under Title II of the ADA.

- (14290) Arden Hills Mounds View High School Trail project. No self-evaluation provided.
- (14297) Arden Hills Old Snelling Trail Extension project. No self-evaluation provided.

### **4. Agreement with Railroad Provider**

Qualifying issue: All multiuse trail projects that are located within right-of-way occupied by an active railroad must attach an agreement with the railroad that this right-of-way will be used for trail purposes.

- (14092) Ramsey County Bruce Vento Regional Trail Extension. Trail is parallel to rail line and a required agreement was not provided.
- (14208) Rogers Interstate 94 Pedestrian Bridge. The trail crosses a railroad track and a required agreement was not provided.

### **5. MnDOT Letter of Support**

Qualifying issue: The applicant must include a letter of support from the agency that owns/operates the facility (if different than the applicant) indicating that it is aware of and understands the project being submitted, and that it commits to operate and maintain the facility for its design life.

- (14208) Rogers Interstate 94 Pedestrian Bridge. A 2016 letter signed by then-Commissioner Zelle was included. A letter of support from the current administration should be provided.

Staff Recommendation for categories 1-5: Approve all the above described applications conditional on supply of the required letters or documentation by September 1, 2020. In the meantime, the applications would be scored and only deemed to be disqualified if the applicants do not provide the letters or documentation on time.

Proposed Motion: That project applications numbered 14404, 14092, 14161, 14162, 14208, 14057, 14290, and 14297 be deemed qualified contingent upon submittal of the required letters or documentation by September 1, 2020.

## **B. POTENTIAL DISQUALIFICATIONS**

The contact people for the applications below were sent notices informing them that the project application had a potential qualifying issue(s), along with a description of the issue(s) and asked that they provide a response. Staff has reviewed the responses submitted, and based upon this review a staff recommendation and proposed qualifying motion for each application is provided below.

**1. Minnesota Valley Transit Authority: Eagan Transit Station Modernization (14295, Transit Modernization). See page 7 for project summary.**

**Qualifying Issue:** The application's \$440,000 requested federal funding amount is lower than the \$500,000 minimum request needed to qualify in the Transit Modernization funding category.

**Options:**

- Disqualify the project
- Allow the project to compete with a federal request of \$440,000
- Allow the project to compete at the application category minimum of \$500,000 federal request.

**Staff Recommendation:** Allow the project to compete with the submitted federal request amount. A similar action took place in 2016, for a roughly \$60,000 gap, which is the size of this gap. Staff further recommends not increasing the federal requested amount to the \$500,000 minimum, as that would artificially inflate the federal amount, providing additional funds for no additional benefit.

**Proposed Motion:** That the Minnesota Valley Transit Authority project 14295 be qualified at the federal request amount submitted.

**2. SouthWest Transit: Signal Prioritization at East Creek Park and Ride (14191, Transit Modernization). See page 7 for project summary.**

**Qualifying Issue:** The application's \$443,520 requested federal funding amount is lower than the \$500,000 minimum request needed to qualify in the Transit Modernization funding category.

**Options:**

- Disqualify the project
- Allow the project to compete with a federal request of \$443,520
- Allow the project to compete at the application category minimum of \$500,000 federal request.

**Staff Recommendation:** Allow the project to compete with the submitted federal request amount of \$443,520. A similar action took place in 2016, for a roughly \$60,000 gap, slightly more than the size of this gap. Staff further recommends not increasing the federal requested amount to the \$500,000 minimum, as that would artificially inflate the federal amount, providing additional funds for no additional benefit.

**Proposed Motion:** That the Southwest Transit project 14191 be qualified at the federal request amount submitted.

**3. Move Minneapolis: Comprehensive Mode Share Measurement (14440, Travel Demand Management). See page 8 for project summary and response letter in separate handout.**

Qualifying Issue: The Travel Demand Management (TDM) funding category funds projects that directly impact reduced reliance on single-occupancy vehicles. Based on Council staff's understanding, the project is a survey tool that appears to have no direct impact on mode choice or travel reduction of individuals and is not eligible per federal or Metropolitan Council guidelines.

**Applicable Regional Solicitation Qualifying Criterion** (applies to all funding categories): The project must exclude costs for *studies*, preliminary engineering, design, or construction engineering. Right-of-way costs are only eligible as part of transit stations/stops, transit terminals, park-and-ride facilities, or pool-and-ride lots. Noise barriers, drainage projects, fences, landscaping, etc., are not eligible for funding as a standalone project, but can be included as part of the larger submitted project, which is otherwise eligible.

**Application TDM Definition:** Travel demand management (TDM) provides residents/commuters of the Twin Cities Metro Area with greater choices and options regarding how to travel in and throughout the region. *Projects should reduce the congestion and emissions during the peak period.* Similar to past Regional Solicitations, base-level TDM funding for the Transportation Management Organizations (TMOs) and Metro Transit will be not part of the competitive process.

Examples of TDM Projects:

- Bikesharing
- Carsharing
- Telework strategies
- Carpooling
- Parking management
- Managed lane components

Options:

- Disqualify the application. (No option to qualify the project as studies are ineligible for federal CMAQ funding.)

**Staff Recommendation:** Staff recommends that this project does not follow federal guidelines for TDM and CMAQ funding as it is a survey/study that is not eligible under federal CMAQ guidance or TAB's adopted application qualifying criteria.

**Proposed Motion:** That the Move Minneapolis project 14440 be disqualified.

**4. Move Minnesota: Changing the School Commute—Shifting Youth to Transit (14041, Travel Demand Management). See page 8 for project summary**

Qualifying Issue: Based on Council staff's initial understanding of the application and input provided by FHWA staff, it is unclear if all elements of this project are eligible for federal CMAQ funding. Specifically, there are questions as to whether portions of the project should be considered a "study" and therefore the costs are not eligible and also whether all elements are open to the general public, as it appeared the fare incentive is limited only to students.

**Applicable Regional Solicitation Qualifying Criterion** (applies to all funding categories): Similar criterion to the application described in #3 above, and in addition “The project must be accessible and open to the general public.”

Options:

- Approve the application as qualifying, with the applicant understanding that only eligible expenses would be reimbursed. Request that Move Minnesota provide a more detailed project budget, so that FHWA can identify the items that are ineligible.
- Disqualify the application.

Staff Recommendation: Based upon the applicant’s response it appears that portions of the project may be ineligible for CMAQ funding. Council staff recommends continuing to work with FHWA to identify eligible and ineligible costs. The applicant must commit that upon determination by FHWA, that costs not eligible for federal funds would be covered by local funds.

Proposed Motion: That the Move Minnesota project 14441 be qualified as a TDM project subject to review of eligible costs by FHWA, and a commitment by the applicant to fund any costs deemed federally ineligible using local funds (above the local match).

**5. Metro Transit: Gold Line Downtown Modernization (14392, Transit Modernization). See page 9 for project summary and response letter in separate handout.**

Qualifying Issue: The proposed project includes the building of transit stations and it is unclear if these stations should be considered new or upgraded existing stations. New stations should compete in the Transit Expansion application category while upgraded stations compete in the Transit Modernization application category. In past Regional Solicitation cycles, projects that upgraded existing transit stops were funded in the Transit Modernization application category. In this case, the application refers to Gold Line stations that appear to be new and also refers to some upgrades to existing transit stops served by existing local routes.

While the project name/title refers to the Gold Line, the ridership calculations and benefits discussed within the application rely solely on existing local routes and ridership, new Gold Line ridership is not considered.

Applicable Application Instructions: “If a project includes both expansion and modernization elements, it is the applicant’s discretion to choose which application category the project would best fit.”

Application Transit Modernization Description: “A transit project that makes transit more attractive to existing riders by offering faster travel times between destinations or improving the customer experience. Modernization projects may also benefit new or future riders, but the projects will be scored primarily on the benefit to existing riders.”

Options:

- Qualify the application as a Transit Modernization project.
- Disqualify the project as it should have been a Transit Expansion project.
- Allow the project to move to the Transit Expansion funding category and include the opportunity to provide updated data on measures 2 (new annual riders) and 4 (total emissions) and eliminate consideration of measure 5 (project improvements for transit users).



Staff Recommendation: Based upon the applicant's response, the project appears to be a hybrid project with both new and improved stations. The project calculates its ridership and benefits using existing riders as required under the Transit Modernization measures. Because the application instructions specifically allow the applicant to choose an application category for a project with both expansion and modernization elements, the staff recommendation is that the project remain within the Transit Modernization category.

Proposed Motion: That the Metro Transit project 14392 be qualified as a Transit Modernization project.

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<b>ROUTING</b>		
<b>TO</b>	<b>ACTION REQUESTED</b>	<b>SCHEDULED DATE</b>
TAC Funding & Programming Committee	Adopt	6/17/2020

## **Submitted Project Summaries of Potential Application Disqualifications**

### **1. Minnesota Valley Transit Association: Eagan Transit Station Modernization (14295, Transit Modernization)**

Brief Project Summary:

With a growing ridership at Eagan Transit Station (ETS), the need for an elevator has become apparent. ETS Modernization grant application is for the installation of a passenger elevator. The station is bordered by the secant busiest intersection in Dakota County, Yankee Doodle Road and Pilot Knob Road. Advance to Interstate Highway 35E; it provides transit access to a large retail area, hotels, and multi-family housing. The Station also serves commuters to the downtown areas of both Minneapolis and St. Paul.

Development in the area grew rapidly when MVTA built a Transit Oriented Development (TOD) on the lite located at 3470 Pilot Knob Road in Eagan, MN. The area is now the City of Eagan's central shopping district. That project included a six-store mall adjacent to the transit station. The original 330-vehicle surface park and ride started serving customers in 1999. The park and ride demand at the site increased on in 2002 and it was expanded to accommodate 750 vehicles. The expansion included a two-level parking ramp structure, customer waiting area, and restrooms. Annual ridership at this location is just under half a million. The expansion project did not include a passenger elevator. Currently, ass customers parking on the upper levels are required to use stairways only to exit the parking ramp.

The Metropolitan Council's Thrive MSP 2040 Transportation Policy Plan sates we should provide people of all ages and abilities with a transportation system that connects them with jobs, schools, and opportunities. It has become a necessity that an elevator is installed to aid customers in existing all levels at ETS transit station parking ramp. This project is consistent with Thrive MSP 2040.

### **2. SouthWest Transit: Signal Prioritization at East Creek Park and Ride (14191, Transit Modernization)**

Brief Project Summary:

The project consists of allowing better access into and especially out of the East Creek parking ramp located in the southwest quadrant of Highways 212 and 41. This project is signal prioritization for those accessing and leaving the ramp. Pre-COVID-19 days, busloads of 35 to 55 passengers would unload and all try to leave, in single occupant vehicles, the ramp at one time causing a significant backup into the ramp itself.

The address is 2120 Chestnut Street North, Chaska, MN 44318. The road where the ramp traffic exits onto is Highway 41/Chestnut Street North. The street opposite the exit at East Creek is Canyon Road. Highway 41 is considered a Principal Arterial.

3. **Move Minneapolis: Comprehensive Mode Share Measurement (14440, Travel Demand Management)**

Brief Project Summary:

Move Minneapolis in partnership with a technical advisory panel will develop a novel commute mode share measurement tool to include a full range of multimodal categories (shared modes, walking, biking, ebiking, scooting, on-demand microtransit, Metro Mobility, etc.). remote work impacts, equity considerations, and other key commuter attributes. The initial survey will reflect a fully representative sample of commuters in downtown Minneapolis, but the tool will be designed to be expanded to study additional cities and regions.

4. **Move Minnesota: Changing The School Commute—Shifting Youth to Transit (14041, Travel Demand Management)**

Brief Project Summary:

Changing the School Commute: Shifting You to Transit Use is an innovative TDM project to change behavior for students commuting to high schools Minneapolis and Saint Paul new Metro Transit's High Frequency Network. The project will work to shift school car trips to transit trips. The High Frequency Network routes run on high congestion arterial streets--so that a shift from car to transit along these routes provides congestion relief where it is needed most.

Move Minnesota will implement the following strategies, leveraging our TDM expertise in combination with the lived experience of students and school staff:

- Research effective delivery methods for specific school settings. Because of privacy practices, there is little data around the perceived and actual barriers families encounter when making transportation choices. While Move Minnesota can extrapolate generally based on its years of TDM experience, research will be necessary to determine if a curricular, extracurricular, or organizing approach is effective for specific sites. Move Minnesota has identified public high schools as the type with the most opportunity, where students are older and more confident in their ability to navigate transit. Changes in a public school system also have the potential to impact multiple sites. However, staff will also research other schools that are good candidates.
- Build relationships with schools, educators, and students. Successful behavior change work in this area will require information gathering and research, which relies on proactively building and maintaining relationships with key influencers such as respected educators, student groups, advisory boards, and students with social capital. These are all points of influence within a school community, and support logistical changes as well as cultural ones.
- Develop educational toolkits for students, educators, and/or school officials. These could include maps, pricing information, relevant policies, or information about individual and societal benefits of sustainable transportation choices. In many cases, these materials will need to be multilingual to ensure ESL students are able to access them.
- Develop site-specific recommendations for changes that will amplify transit use. This could include changes to drop-off and pick-up zones or

procedures, vehicle parking mitigation, transit passes for students or families, etc. Specific recommendations will be informed by research and relationships with specific sites.

This project is exciting because it (1) reduces congestion and VMT near and during peak travel times, while it (2) works with youth to change behavior patterns before the age where most people purchase a car, thus making a significant commitment to driving.

**5. Metro Transit: Gold Line Downtown Modernization (14392, Transit Modernization)**

Brief Project Summary:

The Gold Line Ramsey Washington Saint Paul Downtown Modernization Project will improve the transit experience within downtown Saint Paul by providing passengers with features to make transit a more comfortable, accessible, and reliable travel option. This project will construct nine bus rapid transit (BRT) stations within the downtown core to accommodate the planned METRO Gold Line BRT line, which is anticipated to open 2024. Stations will also support the planned METRO B Line BRT and Rush Line BRT and provide easy connections to existing local, limited stop, and express bus service within downtown. The project corridor currently includes 23 bus routes that make over 1,000 daily trips on an average weekday, with over 14,000 daily boardings and alightings. The full-amenity stations proposed within this application would improve waiting conditions for all transit riders within the corridor and accommodate the increased ridership forecast as part of these planned transitways.

Transit stations to be constructed as part of this project will provide passengers with improved amenities such as enhanced shelters with light, heat, and security features; raised platforms for accessible boarding; real-time arrival information; offboard fare collection technology; bicycle parking; waste receptacles; and seating. Buses serving several of these stations would travel in existing bus-only lanes on 5th and 6th streets, which will improve travel times throughout the corridor. Offboard fare collection will significantly reduce well times at each station and further reduce travel time and annual operating costs.

The METRO Gold Line would connect the cities of Saint Paul, Maplewood, Landfall, Oakdale, and Woodbury and provide high-frequency, bidirectional service at 21 new stations along the line. Construction of this project would allow riders to travel between downtown Saint Paul and east metro communities using reliable and high-quality transit facilities that improve the rider experience and maximize operational efficiency.

This project includes \$10.5 million for construction of these improvements. Nine station locations have been identified and are discussed further in the application. Stations would be constructed on 5th and 6th Streets, Smith Avenue, and Sibley and Wacouta Streets in downtown. The project does not request funding for bus purchases.



June 11, 2020

Elaine Koutsoukos  
TAB Coordinator  
390 N. Robert St.  
St. Paul, MN 55101

RE: Regional Solicitation Application Qualifying Review

Dear Ms. Koutsoukos:

Thank you for your letter regarding the Gold Line Downtown Saint Paul Transit Modernization project. Transit stations to be constructed as part of this project will provide over 1,900 existing daily passengers<sup>1</sup> with improved amenities such as enhanced shelters with light, heat, and security features; raised platforms for accessible boarding; real-time arrival information; offboard fare collection technology; waste receptacles; and seating.

In developing the application, Metro Transit staff and our project partners evaluated both Transit Expansion and Transit Modernization criteria. Through this review, and in consideration of the primary benefits of the proposed project, the modernization category best met key definitions in the solicitation materials:

- *A transit project that makes transit more attractive to existing riders by offering faster travel times between destinations or improving the customer experience.*
- *Modernization projects may also benefit new or future riders, but the projects will be scored primarily on the benefit to existing riders.*
- *Projects that benefit a wide range of services and users that includes... BRT lines may be eligible.*
- *If a project includes both expansion and modernization elements, it is the applicant's discretion to choose which application category the project would best fit.*

While these factors led us to a clear conclusion, we appreciate your feedback. In retrospect we recognize consultation with solicitation staff could have uncovered potential issues earlier. Thank you for the opportunity to share information clarifying the project and its benefits. In this response, I provide information from the original application and offer new clarifications on the project scope. With this clarification, I respectfully request that staff and qualifying review committees determine that the project qualifies under Transit Modernization.

As explained below, while the project prepares the corridor for separate future BRT service expansions, the proposed project improvements benefit the busiest transit corridor in

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<sup>1</sup> Fall 2019 Passenger Boardings and Alightings

downtown Saint Paul and are consistent with past modernization grants for station construction. Multiple station improvements proposed within the project scope will be used by existing transit riders, and expanded bus stop capacity resulting from the project will benefit the speed and reliability for all corridor transit routes and users. These benefits are not limited to BRT or to the Gold Line project, and therefore best meet the Transit Modernization category.

In past solicitations, multiple projects planned for future BRT services have been funded through Transit Modernization. These projects have prepared the corridor for BRT by constructing enhanced stations and expanding stop capacity. Most recently downtown Minneapolis station improvements were funded by a Regional Solicitation grant, including stations served by all corridor routes. These opened with the METRO C Line in 2019. The proposed project follows this approach, preparing downtown Saint Paul for Gold Line BRT service, while also being of immediate use to passengers through improved facilities.

Most importantly, proposed stations will directly serve existing riders. As noted in the application, “proposed stations are planned to be constructed in preparation for bus rapid transit services, and several stations will serve all routes. The station locations used by all routes include Smith Avenue at 5th St, 5th St at Market, and 6th St at Washington”. These locations currently serve over 1,900 existing daily riders who will use these project stations.

Finally, the project benefits all routes and riders along the primary transit streets in downtown Saint Paul. A significant volume of bus trips (over 1,000 daily) and passengers (14,000 boardings and alightings) compete for access to a limited number of bus stops along 5th and 6th Streets. As stated in the application “the proposed project benefits all riders' service reliability and travel speed. This is accomplished through added bus stop capacity in downtown implemented through the project, allowing assignment of routes to downtown stops”. While this benefit is not as direct as existing customers' use of some stations, frequent backups at existing bus stops impact all corridor customers; proposed improvement will ease these capacity constraints.

In summary, through past precedent, through use of some project station infrastructure by all routes, and through benefits to all corridor routes customers' speed and reliability, Metro Transit requests the project be considered and scored within Transit Modernization. We welcome the opportunity to discuss the project with TAC Funding and Programming next week.

Sincerely,



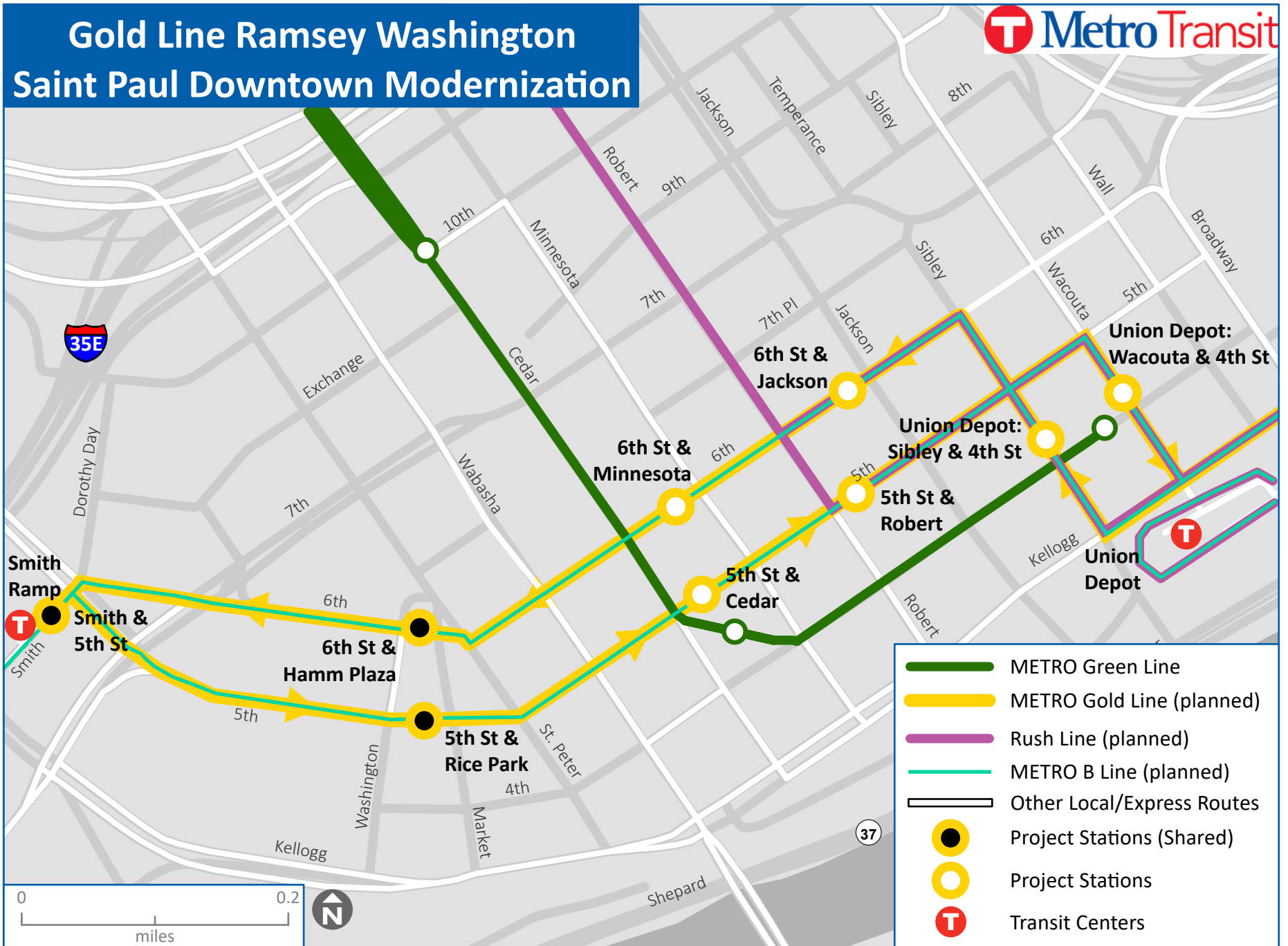
Charles Carlson









Director, BRT Projects

Metro Transit

Attachment: Project map

# Gold Line Ramsey Washington Saint Paul Downtown Modernization



-  METRO Green Line
-  METRO Gold Line (planned)
-  Rush Line (planned)
-  METRO B Line (planned)
-  Other Local/Express Routes
-  Project Stations (Shared)
-  Project Stations
-  Transit Centers



**RE: Qualifying Criteria for “Changing the School Commute,” 2020 Regional Solicitation Application #14041**

*The stability of a republican form of government depending mainly upon the intelligence of the people, it is the duty of the legislature to establish a general and uniform system of public schools. The legislature shall make such provisions by taxation or otherwise as will secure a thorough and efficient system of public schools throughout the state.*

- ***Minnesota State Constitution, Article 8, Section 1***

Dear TAC Funding and Programming Committee,

I am writing in response to a letter Move Minnesota received from Elaine Koutsoukos, TAB Coordinator, on June 3, 2020. According to the letter, Council staff determined that Move Minnesota’s Regional Solicitation application—which targets an audience of students in schools across key geographies in the region—does not meet the qualifying criterion “that all projects... be open to the general public and may not be limited to specific groups, such as only students.”

This memo articulates why students and their schools are the general public—any finding to the contrary would be in conflict with the Minnesota State Constitution. This memo further shows how common sense dictates that school communities must be members of the general public. Finally, this memo describes how a strict (and unconstitutional) interpretation of the phrase “general public” would invalidate the Metropolitan Council’s entire Regional Solicitation process and would necessitate shuttering the program.

**I. Students in School are the “General Public”**

A system of public education is established in the Minnesota State Constitution.<sup>1</sup> The Constitution acknowledges that these schools may be funded “by taxation.”<sup>2</sup> Taxation, in turn, may only be collected for “public purposes.”<sup>3</sup>

“Public purposes” are defined by the Minnesota Supreme Court. In *Visina v. Freeman*, the Court declared a public purpose “an activity as will serve as a benefit to the community as a body.”<sup>4</sup> The court further noted that a public purpose is not served if the benefit to the whole community is merely incidental—instead, the “primary object of an expenditure” must be to serve the public purpose.<sup>5</sup>

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<sup>1</sup> Minnesota State Constitution, Art. XIII, Sec. 1.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at Article X, Section 1.

<sup>4</sup> *Visina v. Freeman*, 252 Minn. 177, 184 (1958) (underline added) (interpreting the Minnesota State Constitution’s edict that taxes shall only be spent on public purposes).

<sup>5</sup> *Id.* (citing *Burns v. Essling*, 156 Minn. 171, 174 (1923)).



While the court did not use the precise phrase “general public” in its definition of “public purpose,” its use of the phrase “community as a body” clearly conveys the concept presumably intended by the undefined phrase “general public” in Metropolitan Council materials: i.e. the whole of the populous.<sup>6</sup>

Move Minnesota’s TDM Regional Solicitation submission (“Changing the School Commute: Shifting Youth to Transit Use”) describes the target-served communities as “schools, educators, and students.”<sup>7</sup> The application further identifies tax-funded “public high schools” as the primary, although not exclusive, target of proposed work.<sup>8</sup>

“Public high schools” and their communities fit squarely within any possible definition of “public schools” that may be funded “by taxation” under the Minnesota State Constitution.<sup>9</sup> Since any institutions funded by taxation must, as a “primary object,” serve “the community as a body,” the Metropolitan Council’s TAC Programming and Funding Committee must agree that a Regional Solicitation project that serves schools and their communities clearly serves the general public.

## II. As a Matter of Common Sense, School Communities are the “General Public”

### a. Students are the “General Public” at a Snapshot in Time

School attendance is compulsory in the state of Minnesota for “[e]very child between seven and 17 years of age ... unless the child has graduated.”<sup>10</sup> This law mirrors laws in states across the nation.<sup>11</sup> Thus schools are filled with, quite literally, all of us, albeit at a snapshot in our lives. As proof, consider whether everyone you know, and know of, has spent time as part of a school community. Now consider whether everyone you know, and know of, has learned to drive, or had a monthly parking contract at the ABC Ramps in Minneapolis, or rented an apartment along the Green Line, or lived in the eastern Twin Cities suburbs, or worked at an employer where working remote was possible (remember our current unemployment numbers, caused largely by furloughs and layoffs of those who cannot work remote!).

All of these non-school scenarios—for which there is far from unanimous participation—are examples from funded Regional Solicitation projects in prior years (for a fuller comparative analysis of Regional Solicitation

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<sup>6</sup> While the Metropolitan Council does not provide a definition of “general public” in its application materials (see e.g. “Qualifying Requirements” (January 22, 2020), available at <https://metro council.org/Transportation/Planning-2/Transportation-Funding/Regional-Solicitation-NEW/Applying-for-Regional-Solicitation-funds.aspx> under the link “qualifying criteria”), Merriam-Webster’s online dictionary defines “the general public” as “all the people of an area, country, etc.” <https://www.merriam-webster.com/dictionary/the%20general%20public#:~:text=Definition%20of%20the%20general%20public,open%20to%20the%20general%20public>, clearly synonymous with “community as a body.”

<sup>7</sup> Regional Solicitation Application 14041 (PDF), p. 3, 2020.

<sup>8</sup> *Id.*

<sup>9</sup> Minnesota State Constitution, Art. XIII, Sec. 1.

<sup>10</sup> Minn. Stat. 120A.22 Subd. 5 sec. (a) (“Compulsory Education”).

<sup>11</sup> “Compulsory Education Laws: Background,” Findlaw, June 20, 2016, <https://education.findlaw.com/education-options/compulsory-education-laws-background.html#:~:text=Compulsory%20education%20laws%20require%20children,must%20be%20before%20dropping%20out> (“[V]irtually all states have mandates for when children must begin school and how old they must be before dropping out.”).

applications, see Part III of this memo). If these cross sections of the community are considered the “general public,” schools clearly must be as well: schools are, in a country with mandated education like the United States, as complete a cross section of the general public—by every measure except for age—as any other segment of the population. Our students are all of us.

#### **b. Schools Include More Than Students, and Schools Do More Than Educate**

Merriam-Webster defines “school” as “an institution for the teaching of children.”<sup>12</sup> Even under this simplified definition, the concept of school includes students, instructors, and administrators. A somewhat more expanded definition of the school community would also include Parent Teacher Organizations, thus embracing the families of all students enrolled in school at a particular time (to give a sense of scale, assuming an average of three people per student family, this would bring Minneapolis Public Schools’ total student and student family community to 107,022 people).<sup>13</sup> Thus, while schools may not, in a simplified definition, reach *every single member* of the public, their reach is extraordinary.

And of course, we know that school communities do more than teach children. Schools are filled with after-school assistants so that parents can work a full day; social workers to help manage challenges from home or community life; cafeteria workers who keep children fed who might otherwise not have access to a meal; and community education programs for adults.

In short, society asks our schools to solve all sorts of issues—from food scarcity to zip code discrimination—present in our “general public” communities, far from the traditional role of merely “teaching of children.” And to accomplish this monumental task, school communities include people from myriad professions, backgrounds, and of diverse ages. For society—and the Metropolitan Council—to charge schools with solving many of the “general public’s” most pressing challenges while denying that schools are a part of that general public would be unreasonable and contradictory.

Finally, without schools, the very foundation of the “general public,” of our society, and of this country would not exist.<sup>14</sup> As Chief Justice Earl Warren eloquently wrote:

[E]ducation is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in

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<sup>12</sup> Merriam-Webster, Definition of *school* 1 (a). <https://www.merriam-webster.com/dictionary/school>

<sup>13</sup> Minneapolis Public Schools, Quick Facts [https://mpls.k12.mn.us/uploads/mps\\_budget\\_-\\_at\\_a\\_glance.pdf](https://mpls.k12.mn.us/uploads/mps_budget_-_at_a_glance.pdf) (“Number of Students: 35,674”).

<sup>14</sup> See e.g. Professor Dana Mitra, *The Social and Economic Benefits of Public Education*, p. 4 (“The national importance of education is based on the significant positive influence it has on individual lives and on the welfare of communities.... [E]ducation also has broader social and economic benefits for individuals, families, and society at large. These benefits are received even by people whose relationship to the public school system does not extend beyond “taxpayer.”).

helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.<sup>15</sup>

Schools and their communities are the “general public,” support “the general public,” and provide long-term stability for the very concept and essence of the “general public” in democratic society.

### III. **An Unconstitutionally Strict Interpretation of “General Public” Would Invalidate the Entire Regional Solicitation Program.**

If the Council staff’s understanding of “the general public” as relates to Regional Solicitation Application #14041 is upheld by the TAC Programming and Funding Committee, it will create a slope so slippery that every project funded through the Regional Solicitation program would slip from the Metropolitan Council’s hill of logic, and would necessitate the program be dismantled and shuttered.<sup>16</sup>

Previously-selected projects that include limitations on who can access the programming include:

#### **10804 - Closed Network Carshare in Minneapolis and Saint Paul**

- Limited to people with drivers’ licenses (by definition age 16 or older)
- Limited to areas inside the 494/694 beltway
- Limited to groups of neighbors with financial capacity to lease a vehicle (functionally, adults with a certain income level)
- Functionally limited to English-speakers (all presented marketing materials are in English)

#### **10913 - Transforming Renters' Transportation Choices**

- Limited to people who rent housing or owners of said housing. In almost all situations, someone must be at least 18 to sign a lease or contract
- Limited to people living within a half mile of the METRO LRT Green Line

#### **11030 Shared Mobility Integration for the Metro Transit Mobile App**

- Limited to bike share, ride hailing, car share, and scooter users, all of which require users to be at least 18
- Limited to smart phone owners and users
- Limited to transit service users in the 7-county metro area

#### **11022 - Parking FlexPass at ABC Ramps**

- Limited to people with driver’s licenses (by definition 16 or older)
- Limited to people or organizations with ABC ramp parking contracts. Functionally this limits engagement to people who own a car and have a job in downtown Minneapolis: “most current ABC Ramps users are white, high-income, and young adults aged 26-35.”<sup>17</sup>

#### **05310 - Learn to Ride a Bicycle Program Expansion**

- Limited to low- and moderate-income communities
- Limited to Frogtown and Summit-University neighborhoods in Saint Paul

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<sup>15</sup> *Brown v. Board of Education of Topeka*, 347 U.S. 483, 493 (1954).

<sup>16</sup> Letter from Elaine Koutsoukos to Elissa Schufman, June 3, 2020.

<sup>17</sup> Regional Solicitation Application 11022, “Parking FlexPass at ABC Ramps,” July 2018.

- Limited to people who use a traditional bike (excludes people with certain kinds of visual and physical disabilities)

**05312 - Colleges as Hubs for TDM Innovation**

- Limited to students currently enrolled and staff at specific private colleges and universities in the Twin Cities

**05015 - Nice Ride Focus Area Densification and Infill Initiative**

- Limited to age 18 and above (required age of Nice Ride users)
- Limited to station locations (Minneapolis and Saint Paul)
- Limited to people who can use a traditional bike (excludes people with certain kinds of visual and physical disabilities)

Every Regional Solicitation application and project is limited to some group or groups by nature of being a focused project, as the list above illustrates. Further, a great number of Regional Solicitation projects inherently *exclude young people under 18*, such as any project limited to car share, employer sites without introductory level jobs, requiring people to be of legal age to sign a contract, and so forth. Application #14041 seeks in part to remedy this injustice by providing this complete and important segment of the general public with access to Regional Solicitation programming.

If the Metropolitan Council determines that a Regional Solicitation application that proposes working with students is not open to the general public, the Metropolitan Council must then defend how all of the projects in the list above *are* open to the general public, and further how the targeted populations of these projects are *more* representative of the general public than schools, a constitutionally-identified public purpose.

**IV. Conclusion**

We were surprised to learn that the Metropolitan Council may not, in practice, consider our public schools in service to “the general public”—as would, I imagine, the school districts, property tax payers, and anyone who has attended one of Minnesota’s educational institutions. We doubt that the Metropolitan Council wishes to affirm the message that young people are not part of the general public.

We assume that the Metropolitan Council does not wish to dispute the constitutionality of education spending in the State of Minnesota, for to do so would create an incredible political firestorm, disenfranchise generations of Minnesotans, and require redrafting the State Constitution.

For the reasons enumerated above, we look forward to having application #14041 considered as meeting the qualifying criteria and rated against the other innovative projects submitted in the 2020 Regional Solicitation’s TDM category.

With regards,



Samuel Rockwell, JD  
Executive Director, Move Minnesota

