

APPENDIX

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Metropolitan Council

Overview of Transit, Transportation, and
Metropolitan Planning Organization roles



October 25, 2023



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Metropolitan Council

Our impact

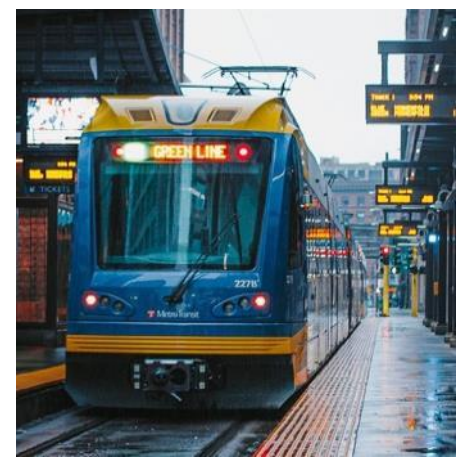
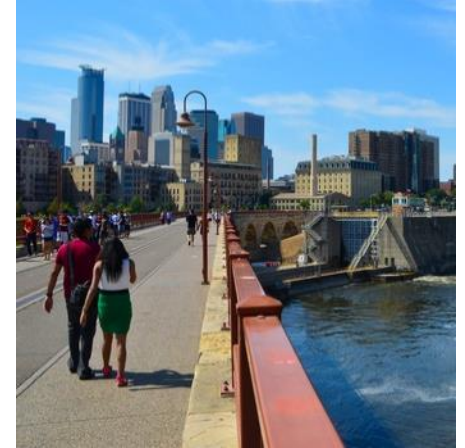
Creating the foundation for a thriving region



No one community can do it alone

Every single person and community makes up the fabric and essence of this region.

- **3,189,756 people** in 7 counties
- **3,120,266 people** in 141 cities
- **69,447 people** in 40 townships
- **430 residents** in Fort Snelling Unorganized Territory
- Native people from 11 federally recognized Minnesota tribes and many other tribal communities
- Growing diversity representing wide-ranging racial identities and ethnicities, with about 300 languages spoken at home



Agency structure and domains



Partnering on a shared vision

Making a strong system possible through planning, coordination, and operations



Long-range planning

Supporting cities and townships for the prosperity of the region



Environmental protection

Protecting public waterways and parklands to sustain our environment



Transportation services

Connecting people to places and keeping the economy moving

Metropolitan Council

Community Development

Environmental Services

Transportation

Housing, Development, and Contamination Clean Up Grants
MN 473.25-255

Regional Land Use Planning
MN 473.145, 473.851-867

Housing Services
MN 473.195

Regional Parks and Open Space planning and funding: MN 473.301-351

Wastewater
MN 473.511

Surface Water Quality
MN 473.157

Water Supply Planning
MN 473.1565

Regional Transportation Planning
MN 473.146

Transitway Development
MN 473.399

Transit Services
MN 473.385

Metro Transit



Metro Transit Overview



A division of the Metropolitan Council

- Operates bus, light rail, and commuter rail
- Serves over 70 communities
- Ridership at about 55% of pre-COVID ridership, providing an average of ~120-140K rides per weekday
- Current service about 75% of 2019 service levels

Metro Transit Overview - continued



- More than 2,700 employees
- 2023 operating budget: \$530.3M
- 2023-2028 capital program: \$6.75B
- Current initiatives include (examples)
 - Safety & Security Action Plan
 - Network Now
 - Speed & Reliability Program
 - Zero Emissions Bus Transition Plan
 - Ongoing workforce recruitment and development
 - Metro Transit Forward – creating a strategic vision to guide Metro Transit operations
- Ridership and crime data available online:
www.metrotransit.org/performance

METRO Projects for Metro Transit



METRO Projects Division



A new division of the Met Council

- Lead development of large new transitway projects
- Tasks include project development, engineering, construction
- Currently includes two LRT, two Dedicated BRT, and Arterial BRT
- Staffing includes partner agencies (MnDOT and County) and Consultants

METRO Projects

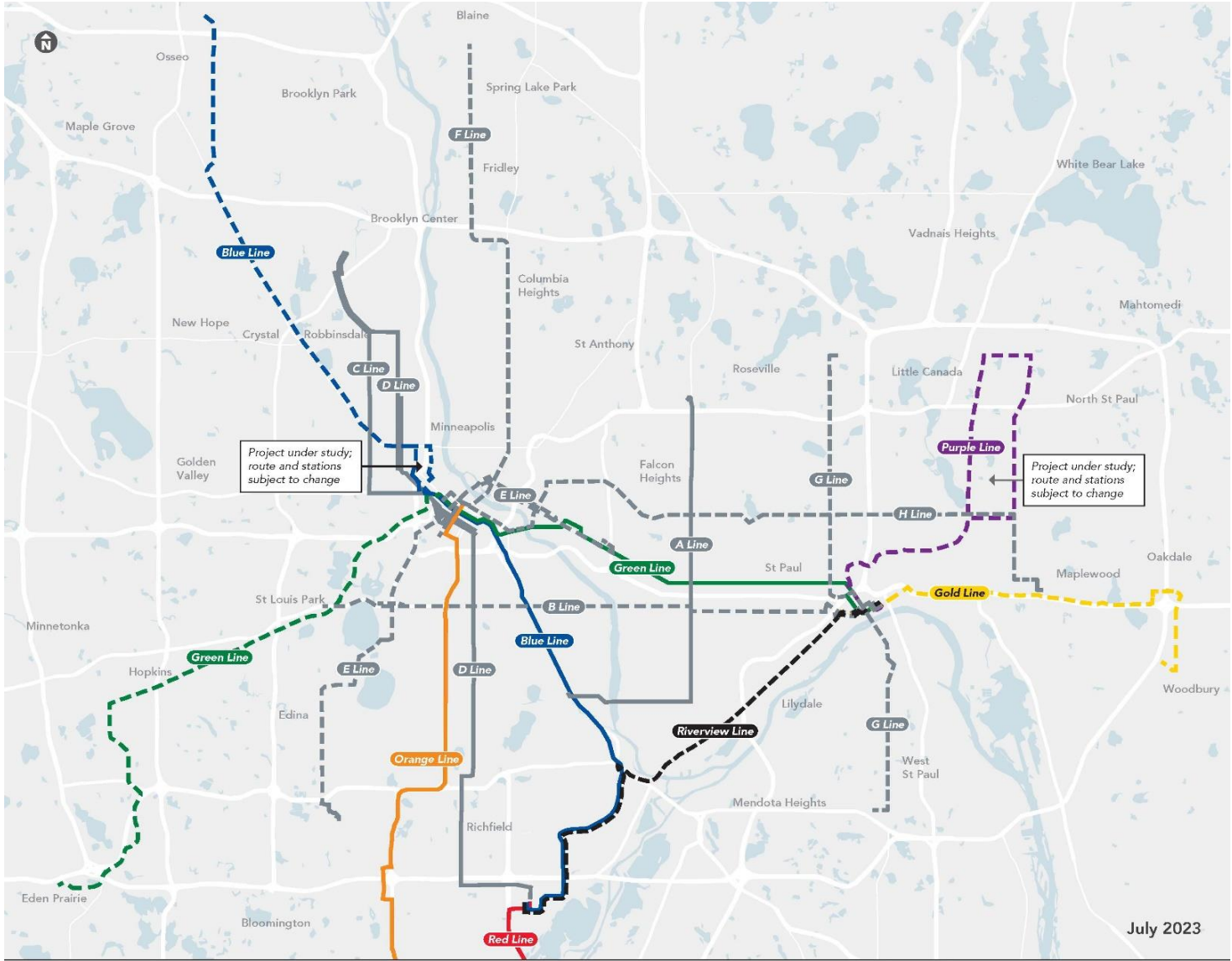


Legislative Direction

- **Guideways and Busways; Construction and Operations**
(MN Statute 473.4051)
- **Capital Maintenance**
(MN Statute 473.4051 subd 2a)
- **Light Rail Transit Municipal Consent**
(MN Statute 473.3994)
- **Corridor Management Committee**
(MN Statute 473.3994 subd 10)

Building the regional transit network

METRO line	Opened/Opening
Blue Line	2004
Red Line	2013
Green Line	2014
A Line	2016
C Line	2019
Orange	2021
D Line	2022
B Line	2025
E Line	2025
Gold Line	2025
F Line	2026
G Line	2027
H Line	2028
Green Line Extension	2027
Blue Line Extension	2030



Current METRO network

- A Line
- C Line
- D Line
- Blue Line
- Green Line
- Orange Line
- Red Line

Planned METRO network

- - - Planned BRT
- - - Gold Line
- - - Purple Line
- - - Project under study; route and stations subject to change.
- - - Green Line Extension
- - - Blue Line Extension
- - - Project under study; route and stations subject to change.
- - - Riverview Line

METRO Transitways



Investments in Transitways

- **Completed Transitways**
 - Blue, Green, Red, Orange, A, C, D (+ NorthStar)
- **Transitways Under Construction**
 - Green Line Extension, Gold, B
- **Future Transitways**
 - Blue Line Extension, Purple, E, F, G, H, J, K, L, Riverview

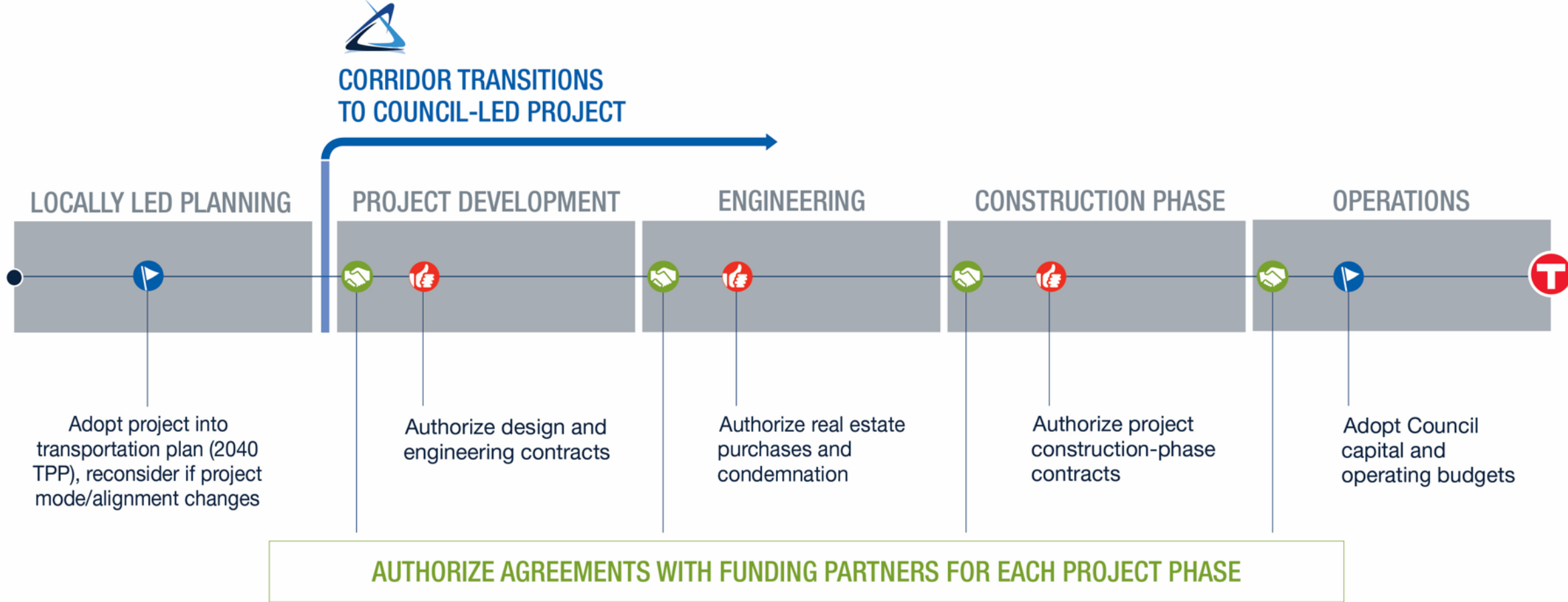
METRO Projects - Roles



Roles Depend on Mode

- **LRT/Dedicated BRT**
 - County leads planning and provides local share of development
 - METRO Projects leads project development, engineering, and construction
- **Highway BRT**
 - County leads planning and provides local share of development
 - METRO Projects leads project development, engineering
 - MnDOT and Metro Transit lead construction
- **Arterial BRT**
 - METRO Projects leads planning, engineering
 - City, County, MnDOT and/or Metro Transit lead construction depending on project

METRO Projects Development Process



Funding by Phase

100% County	100% County	50+% County Up to 50% Federal	50+% County Up to 50% Federal	100% Metro Transit
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Local involvement in METRO Projects



Advisory and Approval

- **Advisory Committee**
- **Corridor Management Committee**
 - LRT: 473.3994 Subd 10
 - BRT : Not required but utilized as standard of practice
- Advise and approve alignment, station locations, scope
- Approvals
- **Municipal Consent**
 - LRT: 473.2994
 - BRT: Not required but practice is to seek approval at municipal level of locally preferred alternative and pre-liminary plans

Public Engagement in METRO Projects



Functions and structure

On-going

- All Phases of the Project
- Focus of engagement changes based on the questions or needs of the project phase
- Issue tracking & resolution
- Considers stakeholder needs & relationship building

Advisory

- Business and Community Advisory Committees
- Boards and Organizations

Required

- Public Hearings
- Public Comment

Green Line Extension

2,350 events since 2012
54,000 participants engaged

Blue Line Extension

720 events since 2020
27,000 participants engaged

Metropolitan Transportation Services



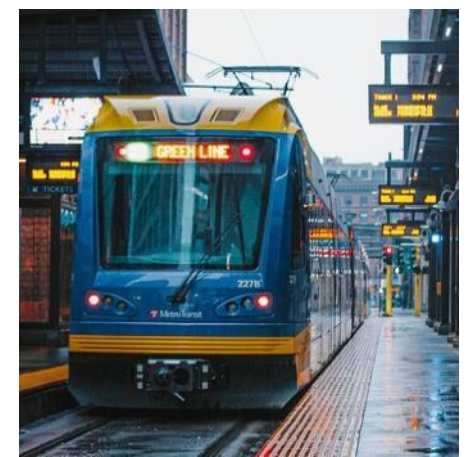
Transportation

Planning

- Designated as the region's Metropolitan Planning Organization (MPO) under 23 USC §134
 - "3C" Process
 - Long-range transportation plan
 - Transportation Improvement Program
 - Unified Planning Work Program
- Designate short-term federal funds programming in coordination with the Transportation Advisory Board (Regional Solicitation)

Transit Services

- Contract and coordinate metropolitan transit operations
 - Contracted fixed-route bus
 - Metro Mobility
 - Transit Link
 - Vanpool program
- Provide financial assistance to replacement service providers



Metropolitan Transportation Services



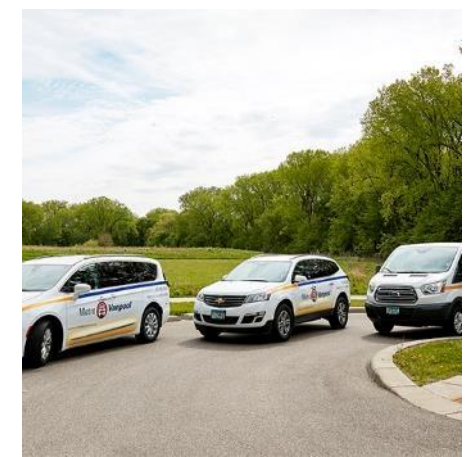
Legislative Direction- Transit Services

- **Contracted Transit Services**
(MN Statute 473.375)
- **Special Transportation Service (Metro Mobility)**
(MN Statute 473.386)
- **Replacement Service Provider Assistance**
(MN Statute 473.388)
- **Capital Improvement Plan**
(MN Statute 473.39)
- **Transportation Accessibility Advisory Committee**
(MN Statute 473.375)

Metropolitan Transportation Services

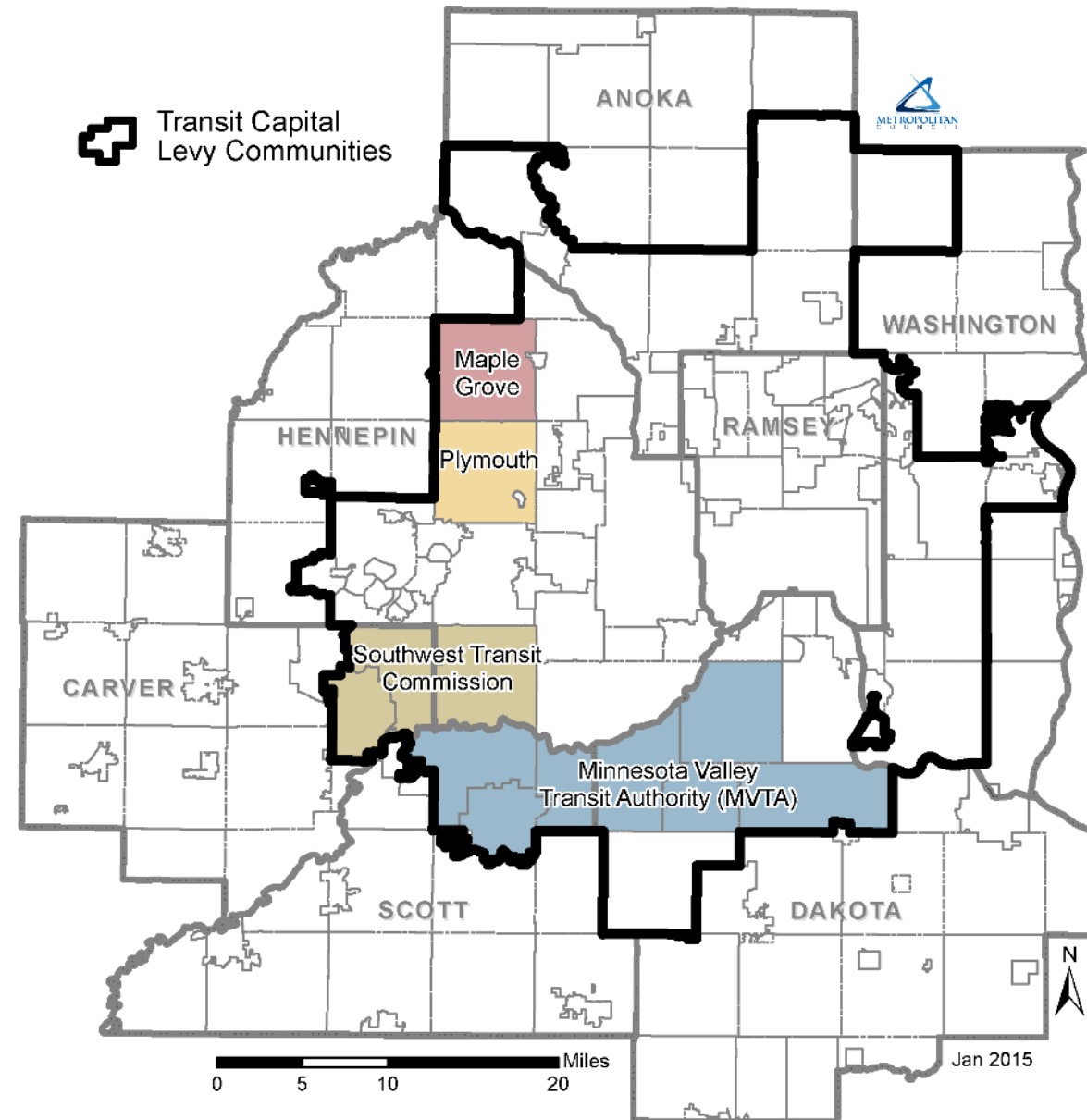
Contracted transit operations

- **Fixed route** – backbone of public transit
- **Metro Mobility**
 - A shared ride, public transportation service for certified riders who are unable to use regular fixed-route buses due to a disability or health condition.
 - Federal and State: Service guaranteed as a civil right under the Americans with Disabilities Act (ADA); additional state requirements in 473.386
- **Transit Link** – Shared-ride public transport where regular route transit is infrequent or unavailable
- **Metro Transit micro** – On-demand dial-a-ride service, 2022-2024 pilot project
- **Metro Vanpool** – Vanpools have five to 15 people sharing the ride to and from work an average of three or more days a week.
- **Regional Services** – includes fleet, technology, grants management, regional policy and provider performance reporting.



Replacement Service Providers

- 473,388 Replacement Service Providers
 - Minnesota Valley Transit Authority
 - SouthWest Transit
 - Maple Grove Transit
 - Plymouth Metrolink
 - University of Minnesota
- Met Council coordinates regional transit policy (473.371), fare system (473.408)
- Met Council funds, purchases, owns, and replaces over 300 vehicles and fare equipment used by replacement service providers
- Met Council passes through MVST funding under statutory and regional policy
- Met Council provides grants for transit providers including as federal match



Metropolitan Planning Organization



TRANSPORTATION POLICY PLAN

2018 UPDATE WITH 2019 AMENDMENTS



2040



Transportation provides connections to opportunity

Transportation planning

Functions

- Highway Planning
- Transit Planning
- Airport Planning
- Freight Planning
- Travel Forecasting
- Corridor Studies
- Review transportation elements of local comprehensive plans



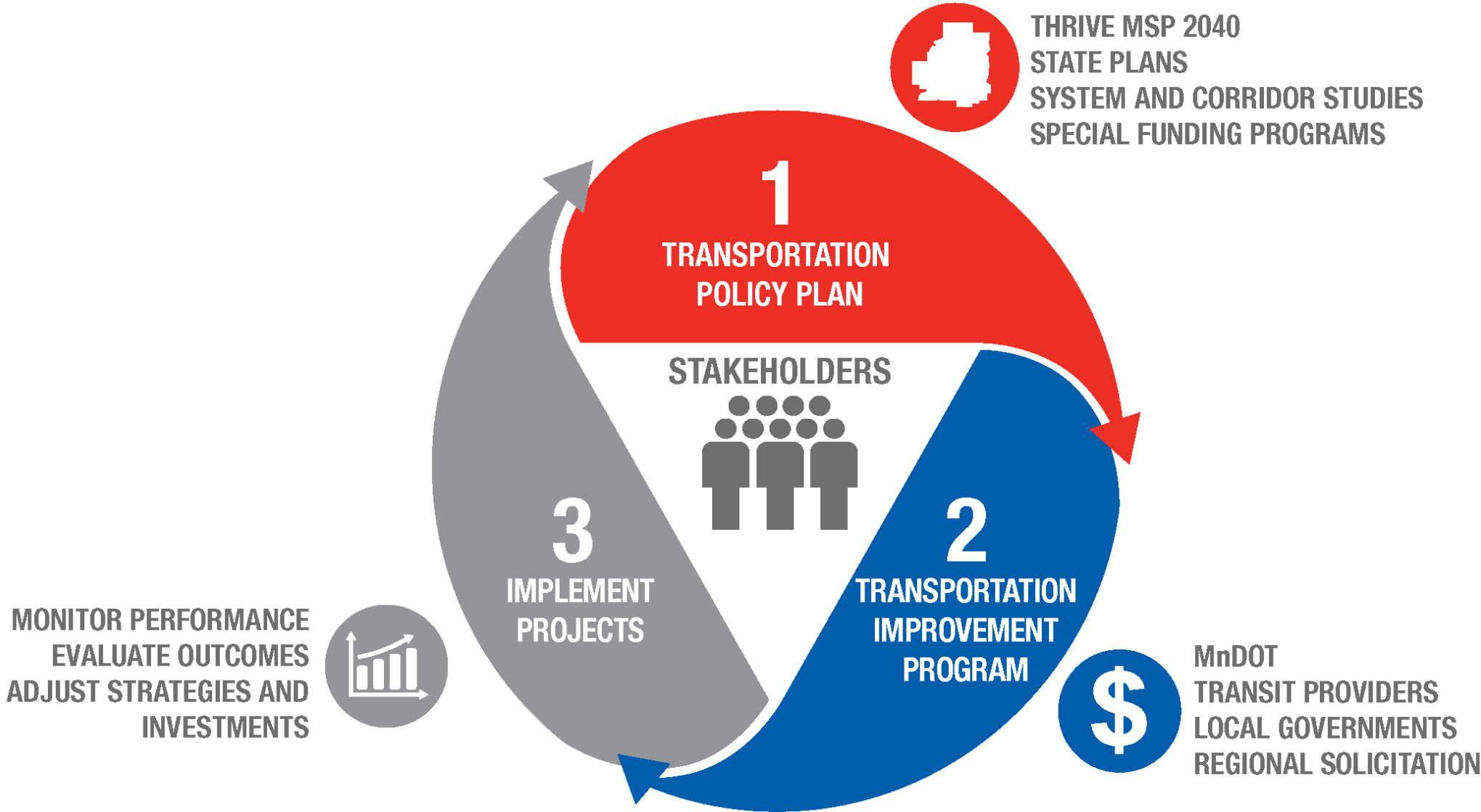
Metropolitan Planning Organization



Legislative Direction – Transportation Planning

- **Designated Agency for Transportation Planning**
(MN Statute 473.146)
- **Evaluate Transportation System Performance**
(MN Statute 473.1466)
- **Administer ROW Acquisition Loan Program**
(MN Statute 473.167)
- **Highway Controlled Access Approval**
(MN Statute 473.166)
- **Review Comprehensive Plans and Matters of Metropolitan Significance**
(MN Statute 473.175, 473.173)

Metropolitan Planning Organization



Transportation Advisory Board



34-member board

- Created through state statute to advise Council's completion of MPO responsibilities
- 18 elected officials
 - 10 elected officials appointed by Metro Cities
 - 7 county board members
 - 1 Suburban Transit Association
- 4 agency members
 - Met Council, MnDOT, MPCA, MAC,
- 8 citizen members
- 4 transportation mode members
 - 2 transit, 1 freight, 1 non-motorized

**State Statute 473.146
Subd. 4. Transportation planning**

Transportation Advisory Board



Functions

- Provides forum for state, regional and local officials, transportation providers and community members
- Reviews and comments on regional and statewide plans
- Solicits, evaluates and recommends local and regional projects to receive federal transportation funding
- Recommends the region's Transportation Improvement Program
 - Includes all regional projects that have federal transportation funds being spent over the next four years
- New: Selects uses for active transportation funding from regional transportation sales tax (5% of 83%; ~\$25M/year)

Transportation Planning Process

TRANSPORTATION PLANNING AND PROGRAMMING GUIDE

FOR THE TWIN CITIES METROPOLITAN AREA JANUARY 2020



Defining roles and responsibilities

- Transportation [Planning and Programming Guide](#)
 - Describes roles of transportation partners in planning and programming processes
 - Summarizes state and regional planning documents
 - Establishes processes for funding and programming
- [Memorandum of Understanding](#) between MnDOT and the Metropolitan Council; executed 2018
 - Documents *Continuing, Cooperative, and Comprehensive* (3C) planning process roles and responsibilities
 - Defines and delineates the TAB's role in project selection and planning processes
 - Includes federal certification of MPO role and concurrence of transit funding recipient designation



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Metropolitan Governance Task Force

October 13, 2023

Metropolitan Council
390 Robert St. North
St. Paul, MN. 55101

Sent via e-mail to Judd Schetnan

Dear Metropolitan Council,

During the last legislative session, the Metropolitan Governance Task Force was established to study and evaluate options to reform and reconstitute governance of the Metropolitan Council. To properly address the governance options as mandated in the legislation, several task force members feel it would be helpful to address what the exact governmental status of the Metropolitan Council is. On behalf of these task force members, I am sharing a Memorandum written by one of our task force members, Professor Myron Orfield.

The primary questions in the memorandum are as follows:

- 1.) Is the Metropolitan Council a local government? If so, how can its enabling statute survive Minnesota's constitutional prohibition on special legislation?
- 2.) Is the Metropolitan Council a state agency? If so, how can it constitutionally exercise the legislative power of taxation or operate with such broad discretionary authority?
- 3.) Is the Metropolitan Council a special district or public authority? If so, how can it exercise the legislative power of taxation, operating in so many areas, without being directly subordinate to an elected government.

The Metropolitan Governance Task Force has a meeting scheduled for October 25, 2023, and the Task Force has requested attendance of the Metropolitan Council's Office of General Counsel at that time. To facilitate task force members' engagement on the Memorandum's questions on October 25th, it would be helpful if the questions could be addressed in advance of the meeting in writing. Ideally, General Counsel would then also be prepared to answer questions task force members may have regarding the prepared written responses on October 25, 2023.

Please email the written responses to Professor Orfield's Memorandum to Representative Hornstein at rep.frank.hornstein@house.mn.gov and Taylor Koehler at taylor.koehler@lcc.mn.gov by 5:00 PM on Monday, October 23, 2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Hornstein". The signature is written in a cursive style with a small flourish above the first letter.

Representative Frank Hornstein
Metropolitan Governance Task Force Chair

Attachment

cc: Judd Schetnan, Government Affairs Director, Metropolitan Council
Representative Frank Hornstein, Metropolitan Governance Task Force Chair
Professor Myron Orfield, University of Minnesota Law School Professor and
Metropolitan Governance Task Force Member

MEMORANDUM

To: Metropolitan Governance Task Force and the Metropolitan Council
From: Professor Myron Orfield
Date: October 9, 2023
Re: Background Material to help Met Council Answer Questions of the Task Force

The following are the questions the Task Force is posing to the Metropolitan Council:

- 1) Is the Metropolitan Council a local government? If so, how can its enabling statute survive Minnesota's constitutional prohibition on special legislation?
- 2) Is the Metropolitan Council a state agency? If so, how can it constitutionally exercise the legislative power of taxation or operate with such broad discretionary authority?
- 3) Is the Metropolitan Council a special district or public authority? If so, how can it exercise the legislative power of taxation, operating in so many areas, without being directly subordinate to an elected government?

The following is background information to help the Council answer the Task Force's questions.

Minnesota statutes declare that the Met Council is "a public corporation and political subdivision of the state." But this is not a sufficient definition. A "public corporation" or a "political subdivision" would still have to be either a: 1) local government, 2) an agency or 3) some sort of special district/ public authority. In searching the statutes, we have been unable to find another "political subdivision" that is not a directly elected local governmental unit. Can you point to another "political subdivision" that is not a directly elected local government? Similarly, we have not been able to find a public corporation that is not a local government, an agency, or a special district/public authority.

The Attorney General's Opinion

In an opinion issued in 1967, Minnesota's Attorney declared that the Met Council was "unique form of local government," that had "attributes of a state agency." See Opinion October 6, 1967. The Attorney General declared the Met Council could not be a state agency. The opinion clearly stated the Met Councils' power to tax was legislative and that assigning such taxing power to a state agency would violate the separation of powers.

Specifically, the opinion stated:

“The Metropolitan Council has undoubted authority to levy taxes under L. 1967, ch. 896, § 8...The power to tax is recognized as an exercise of legislative power, and Minn. Const. Art. III, § 1 prohibits the delegation of any power by one branch of government (in this case, the legislative) to another branch of government (in this case the executive).

The opinion found that the Metropolitan Council had the “attributes of a local government,” but noted that it was higher in the hierarchy than another local government in the seven-county metropolitan area. The opinion thus seemed to say that the Met Council was uniquely powerful local government.

The opinion did not discuss whether the Metropolitan Council was a special district or public authority. Moreover, because the question was not before it, the Attorney did not address the question of whether the council’s enabling statute was special legislation prohibited by Minn. Const. art. XII §2.

After 1994, the Metropolitan Council became far more powerful. At the same time, the previously staggered appointments to the council were made to be at will by the governor. This appointment structure made the council even more like an agency, most clearly resembling the structure of the Minnesota Pollution Control Agency.

A. If the Met Council is a local government, does its enabling statute violate Minnesota’s constitutional prohibition on special legislation?

If the attorney general is right, that the Met Council is the state’s most powerful local government, we are worried that Minn. Stat. § 473 et seq. is “special legislation” that violates the Minnesota Constitution.

Minn. Const. art XII, § 2 states:

Every law which upon its effective date applies to a single local government unit... is a special law....The legislature may enact special laws relating to local government units, but a special law, unless otherwise provided by general law, shall become effective only after its approval by the affected unit expressed through the voters or the governing body and by such majority as the legislature may direct.

Unlike legislation involving a city, county, or school district, where statutes refer in general terms to a class of local governments having certain characteristics, the Metropolitan Council’s enabling legislation names the Council specifically. If the Council is a local government, as the Attorney General has suggested, its enabling statute would be unconstitutional, unless it was approved by referendum of the voters in the seven-county metropolitan area.

B. If the Met Council is a state agency, does its taxing power and broad delegation of discretion violate the Minnesota Constitution’s separation of powers provisions?

The Attorney General found that the council could not be a state agency, because the inherent legislative power of taxation cannot be delegated the executive, but only to a legislative (directly elected) body. Do you agree with the attorney general’s opinion? If not, please explain.

Moreover, there are additional reasons that the Council cannot be a state agency. If the council were a state agency is extremely broad and unfettered discretion would likely be an excessive delegation of legislative authority. Under Minnesota law, a delegation of authority to a state agency is only valid:

if the law furnishes a reasonably clear policy or standard of action which controls and guides the administrative officers in ascertaining the operative facts to which the law applies, so that the law takes effect upon these facts by virtue of its own terms, and not according to the whim or caprice of the administrative officers.

Lee v. Delmont, 228 Minn. 101, 36 NW2d 530 (1949).

Clearly the Met Council Statute which gives it virtually limitless power to shape the development of the Metropolitan Area and additionally all powers “necessary or convenient” to carry out its broad mandate does not likely fit the “the clear policy or standard” requirement of *Delmont*. Indeed, administrative agencies with discretion authority like the Met Councils have been found unconstitutional as excessive delegations of legislative authority. See generally *Askew v. Cross Key Waterways*, 372 So.2d 913 (Fla. 1978). Do you agree? If not, why not?

C. How Could the Met Council be a constitutionally valid special district or public authority?

American black letter local government law states “special function districts differ from general units of local government as municipalities in that the special districts provide only one function or a few related functions.” See generally, *Osborne Reynolds, Local Government Law Third Addition pp 33-40 (2009)*. Common forms of special districts are water or sewer or housing districts. They are usually very simple and straightforward and often directly elected. We are unable to find any unelected special district in the United States that possessed the legislative authority to impose taxes, or the broad scope of authority possessed by the Met Council.

Public authorities like port authorities have “little if any legislative power and are more thoroughly under the control of their creating unit of government than are special districts.” *Id.* Again, we are unable to find any public authority in the United States that has the authority to operate in so many areas with such broad discretion and the legislative powers such as taxation that the Council enjoys.

If you believe that the Council is a special district or public authority, please furnish us with an example of an unelected entity with powers like the Met Councils that has found to be legal and constitutional.



Office of General Counsel
Writer's Direct Dial: 651-602-1105
ann.bloodhart@metc.state.mn.us

October 18, 2023

Representative Frank Hornstein
Metropolitan Governance Task Force Chair

Via Electronic Delivery

Re: October 13 letter

Dear Representative Hornstein:

Thank you for your October 13, 2023 letter on behalf of the Metropolitan Governance Task Force, which was received on Monday, October 16, 2023.

The Metropolitan Council is a legislatively created body that "is established as a public corporation and political subdivision of the state." Minn. Stat. § 473.123, subd. 1.

The law is well-settled that "a municipal corporation has only such powers as are expressly conferred upon it by statute or charter, or necessarily implied. It has no inherent power." *Borgelt v. City of Minneapolis*, 135 N.W.2d 438, 440 (Minn. 1965)(citations omitted). The Council operates within the bounds of its legislatively created authority on a day-to-day basis and takes its direction from its enabling legislation, and subsequent legislation passed into law governing the Council.

The law allows for the Council to exercise taxing authority, such as the recently enacted regional transportation and housing sales and use taxes. See the statutes expected to be codified as follows: Minn. Stat. § 297A.9915, subd. 2 (transportation/transit), and § 297A.9925, subd. 2 (housing). The Council has had property tax levy authority since its creation in 1967. See Minn. Stat. § 473B.08 (1967). The Council also had property tax levy authority for debt service of the former Metropolitan Waste Control Commission and the former Metropolitan Transit Commission, both of which former commissions' functions and duties were transferred to the Council in 1994. See *generally* 1994 Minnesota Laws ch. 628. The Council's taxing authorities include: 1) general property tax levy (Minn. Stat. § 473.249, subd. 1); 2) Right-of-Way Loan Acquisition Program (Minn. Stat. § 473.167, subd. 3); 3) Livable Communities Act Programs (Minn. Stat. § 473.254, subd. 5(b)); 4) Wastewater Treatment Systems Obligations (Minn. Stat. § 473.541, subd. 1); and 5) Metropolitan Area Transit Tax (Minn. Stat. § 473.446). These property taxes are subject to levy limits established by the Legislature. For decades, the Legislature has also authorized the Council to issue bonds for capital purposes. Those bonds have been backed by the full faith and credit of the Council.

To the extent that there are any questions about what the Legislature intended, or whether the Legislature's grant of authority to the Council is somehow unconstitutional, those are issues that are appropriately addressed to and answered by the Legislature.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ann K. Bloodhart".

Ann K. Bloodhart
General Counsel

cc: Metropolitan Governance Task Force Members