

# Metropolitan Council

## Agency Contact Information

### [Metropolitan Council](#)

390 Robert Street North  
St. Paul, Minnesota 55101-1805  
Phone: 651-602-1000

### [Environment Services MCES](#)

## Authority

The Metropolitan Council is the governor's designated [Metropolitan Planning Organization](#) (MPO) which acts as a clearinghouse in the Twin Cities metropolitan area. The MC is also the [Regional Development Commission for Region 11](#).

Receipt of federal funds for highway or transit projects is conditioned on the existence of a "continuing, comprehensive, and cooperative" (the 3Cs) transportation planning process that results in plans and programs consistent with the comprehensively planned development of the urbanized area. (23 USC Sections 103, 104(f), 105(d), and 134; 23 CFR, Part 450).

When working with other units of government, [Minnesota Statute Chapter 473](#) defines the MC's powers and relationship. Under [Chapter 473.123](#), the MC must review and approve all projects that entail the acquisition of land, the construction of controlled access highways, or transit-fixed-guide-ways. Mn/DOT or other local government units proposing this type of acquisition or construction must submit a description of the project to the MC.

Under 23 CFR 450.210, and [Minnesota Statute Chapter 473.171](#), the MC is empowered to review and approve the list of projects, ordered by priority, eligible for Federal Aid Urban Area (FAUA) systems funding as adopted by the [Transportation Advisory Board](#) (TAB). Under [Chapter 473.173](#) the MC is empowered to suspend action on local government and private sector projects found to be of "metropolitan significance" while it reviews the project.

The MC is further empowered to suspend action on the project for up to twelve months upon completion of its review.

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Under [Chapter 473.175](#) the MC is empowered to review and comment on comprehensive plans which must be developed by all local units of government within the area, and to modify such plans when the MC finds that the plans have a substantial impact on or contain a substantial departure from metropolitan system plans. For example, the MC may require the provision of exclusive lanes for buses and other forms of multi-passenger transit on those freeways built after April 12, 1974, if the MC demonstrates that the lanes are necessary to implement the transportation policy plan.

The MC is also responsible for preparing a Transportation Policy Plan (TPP). Under CFR 450.200 - .210 the MC in collaboration with Mn/DOT and publicly owned operators of mass transportation services have the responsibility for preparing a 3 to 5 year Transportation Improvement Program (TIP) including an annual element. Mn/DOT projects must be in the TIP before they can be funded by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA).

See also:

### **United States Code of Federal Regulations**

[FHWA Federal-Aid Policy Guide, 23 CFR 450C](#)

- Metropolitan Transportation Planning and Programming.

[United States Code: Main Page](#)

## **Agency Role(s)**

Within the Metropolitan Council jurisdictional area, the MC reviews and comments on all proposed state highway construction. This same process of review and comment occurs relative to the statewide Transportation Plan and its revisions.

As the "3C" (continuing, cooperative and comprehensive) metropolitan planning organization (MPO), the MC has a responsibility (when a project is submitted for its review) to notify other units of government so that interagency coordination can take place.

As noted earlier, the MC needs to approve plans for controlled-access highways proposed by Mn/DOT or others. In practice, this has been interpreted to include approval of significant changes to the system such as new interchanges.

Yet another role is in potentially requiring exclusive lanes for buses and other forms of multi-passenger transit on freeway projects constructed after April 12, 1974 provided the MC demonstrate them to be necessary to implement the transportation policy plan.

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The program functions relative to TIP in effect require the MC to approve inclusion of a given project in a program.

The TAB has been established to advise the MC in its various plans and program functions as well as to meet the requirements of federal law.

A further role for the MC is in mediating disputes which may arise in the municipal approval process. If the municipality will not approve Mn/DOT plans for a regionally important highway, a process exists whereby such local approvals are not required. Since it is a lengthy process, and is mainly for conflict resolution, the MC is rarely called upon to fulfill this statutory function.

The Metropolitan Council also is involved in monitoring the implementation of the various plans and programs.

## **Agency Areas of Concern**

Since the MC is mainly concerned with coordinating the planning and development of the metropolitan area, its interest is in projects of metropolitan significance. They are primarily interested in the timing and scope of highway projects as they may impact the overall plan for development and public investments in other functional areas such as: transit, parks, waste disposal, etc. Subjects such as Air Quality, Bikeways/Pedestrians, Critical Areas, Energy, Handicapped (Design for), Hazardous Waste, Land Use, Noise, Parks, Farmlands, Traffic Forecasts, Transit, Water Quality are just a few of the interests within the metropolitan context.

## **Agreement(s)**

1. There is an agreement (see [Appendix 1](#)) between MnDOT and the Metropolitan Council regarding the review process for federal-aid highway projects. It includes program review, but lists exemptions for certain work categories.
2. See [Appendix 2](#) for procedures on Metropolitan Council approval of controlled access highway.
3. There is an [Urban Partnership Agreement](#) between the U.S. Department of Transportation and both MnDOT and the Metropolitan Council

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### Appendix

Appendix 1 [Agreement between \[Mn/DOT\] Highway Dept. and Met Council April 30, 1975](#)

Appendix 2 [March 1, 1984 Memo RE MC Approval of Controlled Access Highways  
\(Gerald Isaacs to R. P. Braun\)](#)

Appendix 3 [Selected Minnesota Statutes](#)

## **Appendix 1**

### **Agreement between [Mn/DOT] Highway Dept. & Met Council**

**AN AGREEMENT BETWEEN THE MINNESOTA HIGHWAY DEPARTMENT  
AND THE METROPOLITAN COUNCIL. THE DESIGNATED METROPOLITAN  
CLEARINGHOUSE. REGARDING FEDERAL-AID HIGHWAY PROJECT NOTIFICATION AND REVIEW  
PROCEDURES AS REQUIRED BY TITLE IV OF THE INTERGOVERNMENTAL COOPERATION ACT  
OF 1968**

The purpose of this agreement is to update and supersede the 1970 agreement for evaluation, review and coordination of the highway transportation projects in accordance with Office of Management and Budget Circular No. A-95 and instructions found in Federal-Aid Highway Program Manual Book II, Volume 4, Chapter 1, Section 2.

This agreement will also identify certain types of projects which may be exempted from these requirements pursuant to these documents. The basic procedure shall be the clearinghouse review process as described in the Federal-Aid Highway Program Manual.

Keeping in mind the objectives of the Intergovernmental Cooperation Act of 1968 which states that to the maximum extent possible, consistent with national objectives, all Federal Aid for development purposes shall be consistent with and further the objectives of State, Regional and local planning it is imperative that:

1. The initial clearinghouse review takes place at the earliest possible time which is at the system planning stage (5 year+ construction program). Subsequent reviews may be desirable at the beginning of the project development stage (Project Development Report or Environmental Impact Statement) before any action has been taken to implement the proposal, and during the location and design phase (layout plans). Therefore, all project development reports for the seven-county area will be submitted to the Metropolitan council. In the case of highway planning projects (differentiated from construction projects), the clearinghouse review will take place at the Planning and Research Work Program stage.
2. Certain categories of work having little or no impact on local or state development programs be exempted.
3. The clearinghouse will notify the Minnesota Highway Department of Federal-Aid applications and development programs by other governmental agencies. In addition, the Minnesota Highway Department will be furnished copies of the Referrals Received Report which includes all Aid requests.

With regard to the early notification by construction program referred to in Paragraph 1 above, that document will consist of an itemized list of projects described by location, type of work, estimated cost and tentative letting date, if known. Individual projects which develop subsequent to preparation and dissemination of the formal Highway Construction Programs will be handled on a project by project basis.

Projects of little or no impact on development as referred to in (2) would normally fall in any one of the following categories:

1. Improving present facility with no significant right of way acquisition and with no major changes in access and no significant change in roadway function. Examples of the types of projects in this category are:
  - a. Seal coating
  - b. Pavement resurfacing and/or skid proofing

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- c. Shoulder improvements (widening and/or surfacing)
- d. Turning lanes
- e. Channelization
- f. Grading and surfacing for vertical and horizontal sight distance, drainage and other corrections
- g. Lighting, signing, signals, fencing and guardrail
- h. Bridge painting, deck repair and resurfacing
- i. Landscaping and planting

2. Improvements for which a substantial portion of right of way had been acquired by September 30, 1969.

3. Subsequent stages of construction necessary to complete a project to an ultimate design as implied in the original submittal reviewed by the clearinghouse.

The metropolitan clearinghouse reserves the right to request review of any project considered exempt under this agreement.

With regard to Federally funded highway planning projects which would be included in the Highway Planning and Research Work Program, it is agreed that the clearinghouse will be furnished a copy of the annual work program prior to its submittal to the Federal Highway Administration.

After the clearinghouse review, the Minnesota Highway Department will be notified as promptly as possible of those projects that may be of interest to the clearinghouse as well as those projects with no issues involved. Should further information be required regarding any specific project(s) in order to resolve a possible issue, it will be furnished upon request. In any case, the clearinghouse will have 30 days, if necessary to complete the review. No response within the specified time frame shall be construed to mean that the clearinghouse has no interest in the projects(s).

Those people within the Minnesota Highway Department responsible for the various phases of this notification procedure, except the State Aid Engineer, will act through the Regional Assistant Commissioner. All clearinghouse requests and/or comments, except those relating to the Office of State Aid, shall be directed to the Regional Assistant Commissioner.

Within the clearinghouse, the responsibility for the administration of this notification procedure rests with the Referral Coordinator. The Referral Coordinator shall act in accordance with the Referral Manual on Highway Department referrals and referrals by other governmental agencies.

Although omitted from the review and comment requirements of the Intergovernmental Cooperation Act of 1968 and the procedures agreed to herein, the State Highway Maintenance and Resurfacing Program, the Safety Improvement Program, and the Bridge Improvement Program will be furnished for information purposes by the Minnesota Highway Department.

FOR METROPOLITAN COUNCIL:

/s/ John Boland  
Chairman

Dated: April 30, 1975

FOR MINNESOTA HIGHWAY DEPARTMENT:

/s/ Frank D. Manzitelli  
Commissioner of Highways

Dated: April 30, 1975

**SEQUENCE FOR A-95 REVIEW  
OF MINNESOTA HIGHWAY DEPARTMENT PROJECTS  
BY THE METROPOLITAN COUNCIL**

1. The Minnesota Highway Department's Five Year Construction Program is submitted for Metropolitan Council review. The Council does not notify other agencies and municipalities of this review although it will be listed on the "Referrals Received" report. In this review the Council flags projects of metropolitan importance for further review, together with reasons for this importance. These flags can be changed during any subsequent review.
2. Minnesota Highway Department submits all metro area Project Development Reports (PDR) to the Council for review, together with a list of other notified agencies. The Council will not formally notify these agencies again, but if the Minnesota Highway Department seems to have missed any agencies usually notified on reviews by the Council (such as watershed districts) these additional agencies will be notified of the pending review. In addition the PDR will be listed on the "Referrals Received" report and other agencies will be contacted for answers to specific questions if the need arises. Time limits for review of each PDR will be specified by the Minnesota Highway Department on the cover letter. The Council will return its comments in writing, whether it is a staff or a full Council review.
  - a. Any project which is changed in importance from the five-year program review (from flagged to unflagged or vice versa) will be given a full Council review.
  - b. Project development reports dealing with projects that are unchanged in importance will be reviewed by staff, or if deemed necessary, the full Council.
  - c. Regarding projects which are still flagged after review of the PDR, all subsequent Minnesota Highway Department layouts and reports should be sent to the Metropolitan Council for review. The PDR review can be considered the final A-95 review on projects which are not flagged at this point.
3. After all comments have been received by the Minnesota Highway Department, the District Office will send copies of any comments made by other agencies and municipalities to the Metropolitan Council

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**Appendix 2**

**Memo Re: Approval of Controlled Access Freeways**

METROPOLITAN COUNCIL  
Suite 300 Metro Square Building  
Seventh and Robert Streets  
St. Paul, Minnesota 55101

Telephone: (651) 291-6359

March 1, 1984

Richard P. Braun, Commissioner  
Minnesota Department of Transportation  
411 Transportation Building  
St. Paul, Minnesota 55155

Dear Mr. Braun:

Attached are revised implementation procedures for Metropolitan council approval of controlled access highways pursuant to Mn. Stat. 473.167, Sub. 1. These procedures were adopted by the Council on February 23, 1984.

The original procedures adopted in 1976 have been used smoothly and successfully by the Council and Mn/DOT for 7 years. However, in 1982 the Minnesota Legislature enacted the Metropolitan Highway Right-of-Way Reservation Act (Mn. Stat. 473.167, Subd. 2) which authorizes the Metropolitan Council to levy a tax to establish a revolving fund for advance acquisition of metropolitan highway rights-of-way that are threatened by imminent development. The law states that property may be acquired for state trunk highways shown on an official map or for highways shown on the metropolitan system plan that have been approved by the Council pursuant to Subdivision 1. In the process of adopting guidelines to implement this law, several cities and agencies, including Mn/DOT, commented that the Council should consider approving highways at an earlier point in the project development process.

Council staff, working with Mn/DOT and FHWA, suggested the attached changes which were then adopted by the Council. The primary change is in step 1, which now allows the Council to approve a highway prior to completion of a final EIS if the Commissioner has selected a preferred alternative. You may wish to review the development status of metropolitan highways to determine whether there are any you want to submit for approval which did not previously qualify.

If you have any further question on the procedures, please contact Connie Kozlak, Council transportation planner, at 291-6346.

Sincerely,

Gerald Isaacs  
Chairman

cc: Fred Tanzer

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METROPOLITAN COUNCIL  
Suite 300 Metro Square Building, St. Paul, Minnesota 55101  
**REPORT OF THE METROPOLITAN SYSTEMS COMMITTEE**

February 16, 1984

TO: Metropolitan Council

SUBJECT: Revised Implementation Procedures for Metropolitan Council Approval of  
Controlled Access Highways The Metropolitan Systems Committee reviewed the revised  
implementation procedures for Metropolitan Council approval of controlled access highways at its  
meeting Wednesday, February 15, 1984.

**ISSUES AND CONCERNS**

None.

**RECOMMENDATION:**

That the Metropolitan Council adopt the following revised procedure for the implementation of Mn. Stat.  
473.167, Subd. 1.

1.  
After preparation of a draft EIS and location public hearing, D.O.T. (or other highway agency) submits to the Council a final EIS or a documented statement from the Commissioner on the preferred alternate for a controlled access highway.
2.  
Council submits the statement to MTC for review and comment to the Council within 30 days.
3.  
Council approves or disapproves the proposed controlled access highway within 60 days after receipt of the statement.
4.  
State D.O.T. (or other highway agency) resubmits to the Council, if the detailed design of the highway suggests changes of metropolitan concern.
5.  
In the case of non-major projects where an EIS is not required, a documented request for approval can be made at an appropriate stage after a preferred alternate is selected and environmental impacts are assessed.

Respectfully submitted,  
Marcia Bennett  
Chair

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PHTRN

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METROPOLITAN COUNCIL  
Suite 300 Metro Square Building, St. Paul, Minnesota 55101

**MEMORANDUM**

DATE: February 2, 1984

TO: Committee on Metropolitan Commissions

FROM: Connie Kozlak

SUBJECT: Revised Implementation Procedures for Metropolitan Council Approval of Controlled Access Highways

**Background**

The Metropolitan Reorganization Act passed by the State Legislature in 1974 contained the following provision:

Mn. Stat. 473.167, Subd. 1, APPROVAL OF HIGHWAY PROJECTS. Before acquiring land for or constructing a controlled access highway in the area, hereinafter a project, the state highway department or local government unit proposing such acquisition or construction shall submit to the Council a statement describing the proposed project. The statement shall be in the form and detail required by the Council. Immediately upon receipt of the statement, the Council shall transmit a copy to the commission, which shall review and evaluate the project in relationship to the development program and report its recommendations and comments to the Council. The Council shall also review the statement to ascertain its consistency with its policy plan and the development guide. No such project may be undertaken unless the Council determines that it is consistent with the policy plan and development program. This approval shall be in addition to the requirements of any other statute, ordinance or regulation. In 1976, the Council adopted procedures to describe the statement to be reviewed as required by the law, which says "The statement shall be in the form and detail required by the Council."

It was proposed that the implementation of this authority be linked to the Environmental Impact Statement process. On any major highway construction project utilizing federal funds, an environmental impact statement must be prepared according the FHWA guidelines by the highway agency (state or county) constructing the project. These guidelines are very specific in prescribing the items to be covered by the EIS, including a description of the project (location and all major design features) and its alternatives and probable impacts of the action on the natural, social and economic environment. The EIS process has two stages. A draft EIS is prepared, which normally includes all prudent alternatives, and circulated for comment to all agencies and individuals with expertise in any of the identified impact areas or who have an interest in the action. A final EIS is prepared, which indicates the chosen alternative, taking into account all significant comments made on the Draft, and after approval by the Federal Highway Administration, is distributed for information purposes to all those who commented on the Draft. Due to the cost of constructing a controlled-access highway it is unlikely that any such facility would be built in the Metropolitan Area without federal participation. Construction of a controlled access facility is a major action and, therefore, preparation of an environmental impact statement would be necessary on such a project. Since the final EIS provides all the information the Council would need to make an approval decision under the state law, it seemed redundant to require that an additional statement be prepared only to meet the requirements of 473.167, Subd. 1. Therefore, the final EIS was designated in the procedures as the appropriate document for the Council approval in most cases. Since adoption of these procedures in 1976, the Council has used the procedures to approve TH 36 (Cedar Ave.), I-94 in North Minneapolis, I-94 in Washington County, I-394, I-35E and I-494 in Dakota County, TH 252 in Hennepin County and TH 610 from TH 10 in Coon Rapids to TH 252 in Brooklyn Park, as well as several changes

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to controlled access highways such as interchanges and widening the I-335W bridge over the Minnesota River.

### **Need for Revision**

The state law requires Council approval prior to acquiring right-of-way or constructing a controlled access road. Since Mn/DOT normally completes a final EIS before taking either of these actions, the procedure has worked well until now. However, in 1982 the Minnesota Legislature enacted the Metropolitan Highway Right-of-Way Reservation Act (Mn. Stat. 473.167, Subd. 2), which authorizes the Metropolitan Council to levy a tax to establish a revolving fund for advance acquisition of metropolitan highway rights-of-way that are threatened by imminent development. The law states:

"The Council may make loans to counties, town, and statutory and home rule charter cities within the Metropolitan Area for the purchase of property within the right-of-way of a state trunk highway shown on an official map adopted pursuant to section 394.361 or 462.359 or for the purchase of property within the proposed right-of-way of a principal or intermediate arterial highway designated by the Council as a part of the metropolitan highway system plan and approved by the Council pursuant to subdivision 1.

The only state trunk highway in the Metropolitan Area currently shown on an official map is the Shakopee Bypass. All of the highways that have been approved by the Council under subdivision 1 have either been completed, are under construction or Mn/DOT is currently buying right-of-way. In order to meet the intent of this law, it is necessary for the Council to liberalize its procedures for approving highways pursuant to Subdivision 1.

### **Discussion**

The Transportation Policy Plan is a concept plan. The locations of highways which are not yet constructed is shown only in a general location, too generalized to actually authorize purchase of right-of-way. Approval of highways for purchase of right-of-way should be done after the roadway location has been narrowed to one specific alignment. In addition, right-of-way purchases should comply with Federal Highway Administration regulations as much as possible (for instance, after a location public hearing is held) so as not to jeopardize the possibility of federal funding at the time of construction. Given these considerations, it appears that Council approval of a controlled access highway cannot be given much sooner than the current procedure. During the public hearing on the right-of-way guidelines, Mn/DOT made the following comments:

"Mn/DOT staff considers this guideline too restrictive as it essentially requires that a Final Environmental Impact Statement (EIS) has been prepared and submitted to the Metropolitan Council. In most cases this may be appropriate, although we do feel occasions may arise when a corridor has been established, but a Final EIS has not been prepared.

The guidelines should be flexible enough to allow for a situation where location decision has been made and geometric layouts approved, but a Final EIS has not been prepared.

For example, if a Draft EIS has been prepared, a location public hearing held, a Commissioner's decision on the preferred alternative, prepared staff-approved layouts with municipal approval of these layouts; the Council should grant loan approval."

However, even this suggested change may be too restrictive in some cases. Geometric layouts may be necessary to determine final right-of-way limits or land necessary for interchanges. However, once the chosen alternate has been mapped we should be able to grant loans for purchases of a 300-500 foot strip along the mainline of the road. The revolving fund law provides for disposal of any excess right-of-way that may not be needed once final designs are prepared. Therefore, the procedures should be amended to allow Council approval of a highway after the draft EIS is prepared, a location public hearing is held,

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and a preferred alternate is selected by the Commissioner. The Council procedures adopted in 1976 had a provision about changes made to a highway during design stage and this provision should be retained. It might especially be needed in the case where an alternate is chosen and approved prior to the preparation of geometric layouts. In preparation the detailed design of the road, the highway agency must address several issues, such as gradients and curvature radii, which are engineering issues and are not of metropolitan concern from a planning point of view. It is not necessarily for the Council to review these issues. However, if the detailed design makes any changes from the final EIS in issues of metropolitan concern, such as access points or transit provisions, these changes should be submitted to the council for approval as amendments to the proposal approved at the time of the final EIS.

### **Proposed Procedure**

The procedure for approving controlled access highways is proposed to be amended as follows:

1.  
After preparation of a draft EIS and a location public hearing, D.O.T. (or other highway agency) submits to the Council, a final EIS or a documented statement from the Commissioner on the preferred alternate for a controlled access highway.
2.  
The Council submits the statement to the MTC for review and comment to the Council within 30 days.
3.  
The Council approves or disapproves the proposed controlled access highway within the 60 days after receipt of the statement.
4.  
State D.O.T. (or other highway agency) resubmits to the Council, if the detailed design of the highway suggests changes of metropolitan concern.
5.  
In the case of non-major projects where an EIS is not required, a documented request for approval can be made at an appropriate stage after a preferred alternate is selected and environmental impacts are assessed.

### **Findings**

1.  
The current Council procedures for approving controlled access highways, adopted in 1976, are too restrictive for implementing the 1982 law establishing a metropolitan revolving fund for advance acquisition of highway rights of way.
2.  
The following considerations limit the earliest stage at which approval for purposes of right-of-way purchase can be given:
  - a.  
The Transportation Policy Plan shows unconstructed highways as generalized corridors. Roadway location should be narrowed to one specific alignment to allow for right-of-way purchase.
  - b.  
Purchases should comply with FHWA regulations as much as possible so as not to jeopardize future funding.
3.  
The earliest time a controlled access highway could be approved by the Council, given the above considerations, is after a draft EIS is completed, a location public hearing is held, and a Commissioner's decision is made on the preferred alternative.

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### **Recommendation**

That the Metropolitan Council adopt the following revised procedure for the implementation of Mn. Stat. 473.167, Subd. 1.

1.  
After preparation of a draft EIS and location public hearing, D.O.T. (or other highway agency) submits to the Council a final EIS or a documented statement from the Commissioner on the preferred alternate for a controlled access highway.
2.  
Council submits the statement to MTC for review and comment to the Council within 30 days.
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Council approves or disapproves the proposed controlled access highway within 60 days after receipt of the statement.
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State D.O.T. (or other highway agency) resubmits to the Council, if the detailed design of the highway suggests changes of metropolitan concern.
5.  
In the case of non-major projects where an EIS is not required, a documented request for approval can be made at an appropriate stage after a preferred alternate is selected and environmental impacts are assessed.

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**Appendix 3**

**Selected Minnesota Statutes  
(involving Metropolitan Council, Transportation and Transit)**

- 473.166 Controlled access; transit fixed-guide way; council approval.
- 473.167 Highway projects.
- 473.168 Freeway exclusive lanes.
- 473.169 Renumbered 473.3994
- 473.171 Council review; applications for federal and state aid.
- 473.173 Council review; metropolitan significance.
- .473.175 Review of comprehensive plans; school capital programs.
- 473.181 Additional council review powers.
- 473.399 Light rail transit and commuter rail planning.
- 473.3993 Light rail transit facility plans; definitions.
- 473.3994 Light rail transit; design plans.
- 473.3997 Federal funding; light rail transit.
- 473.405 Powers.
- 473.4051 Light rail transit operation.
- 473.409 Agreements with council; encouragement of transit use.
- 473.411 Transit and highway systems.