

# T Transportation Committee

For the Metropolitan Council meeting of April 25, 2012

## ADVISORY INFORMATION

Date Prepared: April 10, 2012

Subject: Authorization to Award Contract for Bloomington & Roseville Area Transit Service

### Proposed Action:

That the Metropolitan Council authorize the Regional Administrator to execute a five-year contract with First Transit, Inc. to provide regular route transit service in the Bloomington and Roseville areas beginning June 2, 2012 through June 3, 2017, in an amount not to exceed \$19,785,108.

### Summary of Committee Discussion / Questions:

Council members Reynoso and Schreiber stated that they would abstain from the discussion and the vote on this item.

Contracts and Procurement Director Micky Gutzmann presented this item.

Following Ms. Gutzmann's presentation, Mr. Aaron Dean, an attorney representing Lorenz Bus Company and perhaps a taxpayer, requested to speak on the Business Item. Mr. Dean had previously provided a written protest to each committee member and he also spoke in opposition to the proposal. On the basis of a number of legal arguments, Mr. Dean urged the committee not to approve the business item and requested that the Council either cancel the solicitation or delay the execution of any subsequent contracts. He argued that the Council has no legislative authority to solicit transit service using a request for proposal methodology. Mr. Dean asserted that the Council needs to solicit under the strictly sealed bid methodology per State Statute 473.372. A copy of Mr. Dean's written comments are attached.

Gutzmann responded to Mr. Dean's assertions by telling the committee that the Council is authorized under state statute to solicit transit service using the proposal methodology. Gutzmann noted that the Council has been procuring transit service this way for many years and that the process has been audited many times by the FTA.

Arlene McCarthy, Director MTS, explained that "same week" action is being requested subsequent to one of the two incumbent vendors indicating late last week as to not being willing to extend their existing contract for 30 days. Same week action is needed to allow the new vendor adequate time to take all actions necessary, such as hiring and training bus operators, to start operating the service on June 2, 2012 and ensure continued service for transit customers.

General Counsel Donald Muetting advised the committee that it was operating under a procurement process that had been approved by the Council and that the committee was not authorized to disregard that process. He also mentioned that Lorenz Bus Company was a proposer on this procurement and it had not objected to the procedure in either this or prior procurements.

John Matthews, Regional Vice President, First Transit, Inc. stated that First Transit appreciates and is excited for the opportunity to provide these transit services for the

Council. He summarized services provided today by the company and advised that First Transit will be ready to deliver the services on June 2.

Motion by Commers to recommend the proposed action, seconded by Munt and passed with Reynoso and Schreiber abstaining.

April 9, 2012

**VIA E-MAIL AND FAX**

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**Re: Protest for Five Year MetCouncil Contract for Bloomington & Roseville  
Area Transit Service, Contract 11P244.**

**Our File No.: 84990-001**

Dear Ms. Gutzmann and Mr. Halsted:

I am following up on my conversation from Friday afternoon, April 6, 2012, with Ms. Gutzmann.

I have addressed this letter to both Ms. Gutzmann, MetCouncil Director of Purchasing, and Richard Halsted of MetCouncil as Mr. Halsted is identified as the RFP Administrator for the above-listed contract ("the Contract") and I talked to Ms. Gutzmann on the phone on Friday.

As discussed with Ms. Gutzmann, I will represent a taxpayer, a bidder, or both to protest any award of the Contract to First Transit, Inc. ("First Transit"). I recognize that MetCouncil has not yet taken action to award the Contract to First Transit, but action may be taken this week by the MetCouncil's Transportation Committee and the full MetCouncil to do so. We are cautioning the MetCouncil in advance not to do so and not to award the Contract to First Transit.

**1. April 9, 2012, Transportation Committee Meeting.**

I intend to attend today's Transportation Committee meeting scheduled for 4:00 p.m. at MetCouncil's office in St. Paul. For your convenient reference, attached to this letter as **Exhibit A** is a copy of the Transportation Committee's Advisory Information notice for today's meeting. **Please let me know immediately if the meeting time or location changes as we just learned about the notice for the Committee meeting.**

Ms. Gutzmann explained to me on Friday that I can comment on the MetCouncil's staff's recommendation to award the Contract to First Transit during the public comment portion of today's meeting. I would like at least 10 minutes to outline concerns about the recommendation to award the Contract to First Transit at today's meeting.

I have copied Steve Elkins, Chair of the MetCouncil's Transportation Committee, on this letter so that Mr. Elkins is aware of this request to address the Transportation Committee at today's meeting. I have also copied Transportation Committee members Lona Schreiber (Vice-Chair), James Brimeyer, Jon Commers, John Doan, Adam Duininck, Jennifer Munt, Edward Reynoso, and Roxanne Smith on this letter so they are aware of this request. Additionally, I have copied the Federal Transit Administration ("FTA") on this letter so the FTA is aware of the issues raised about this procurement.

**2. Government Data Practices Act Request.**

As discussed with Ms. Gutzmann, I would like to obtain copies of several documents from MetCouncil, pursuant to the Minnesota Government Data Practices Act:

1. The five proposals submitted to MetCouncil for the Contract.
2. The prices bid by the five bidders for the Contract.
3. The scoring results of the five proposals used by MetCouncil staff to recommend that the Contract be awarded to First Transit, including the scores for the five bidders for the evaluation criteria used to determine Contract Award as set forth on page 9 of the RFP for the Contract.
4. All documents prepared before bids were due under the RFP on February 28, 2012, which disclosed the relative weights of the evaluation criteria in the RFP to be used by the MetCouncil's Evaluation Panel.
5. All documents showing that MetCouncil informed bidders or taxpayers before bids were due on February 28, 2012, of the relative weights assigned to each evaluation criteria, including price.

6. All documents showing the relative weights assigned to the evaluation criteria in the RFP created after bids were submitted on February 28, 2012.
7. The “standards, procedures and guidelines” promulgated under Minn. Stat. § 473.392 by MetCouncil, including identifying recommendations from the “project management team” set forth in § 473.392 regarding “standards, procedures and guidelines” for competitive bidding of transit services. For your convenient reference, set forth below is a weblink to Minn. Stat. § 473.392: <https://www.revisor.mn.gov/statutes/?id=473.392>
8. Documents which identify the names of the “project management team”, including representatives of private operators, local governments, and representatives of the Amalgamated Transit Union Local 1005, who assisted to develop “standards, procedures and guidelines” for competitive bidding for transit services.
9. Any recommendations by the “project management team” to the MetCouncil to develop “standards, procedures and guidelines” for competitive bidding for transit services for MetCouncil.
10. Any notices regarding “standards, procedures and guidelines” published by the MetCouncil for competitive bidding of transit services.
11. Any “standards, procedures and guidelines” adopted by the MetCouncil at any public meetings regarding competitive bidding for transit services.
12. Any document prepared by MetCouncil staff that has been or will be circulated to MetCouncil Transportation Committee members to explain why MetCouncil staff has recommended to award the Contract to First Transit.
13. All documents showing the price paid by MetCouncil for its Automated Vehicle Locator (“AVL”) system used to monitor the locations of transit buses and timeliness of transit buses as they pass time points on bus routes.
14. The procurement contract between MetCouncil and the provider of the AVL system.
15. AVL statistics for on-time performance of bus routes for all vendors who have transit contracts with MetCouncil since January 1, 2009.
16. All documents that evaluate performance criteria for transit providers who have contracts with MetCouncil since January 1, 2009.

17. Any documents that outline the relative weights assigned to the ranking criteria on page 9 of the RFP for the Contract.
18. Any documents that outline the relative weights assigned to the ranking criteria on page 9 of the RFP for the Contract, including the relative weights assigned to:
  - (1) Proposer experience in providing public transportation services;
  - (2) Proposer size and scope of past experience, in relation to that required in this RFP;
  - (3) Proposer driver training and selection program;
  - (4) Proposer management, administrative, financial and technical capabilities;
  - (5) Proposer vehicle maintenance practices;
  - (6) Proposer reporting capabilities;
  - (7) Proposer compliance with this RFP; and
  - (8) The cost of providing the services under the Contract.

For your convenient reference, enclosed as **Exhibit B** is a copy of page 9 of the RFP so you can confirm that I have accurately listed the evaluation criteria in the RFP.

The most important documents to obtain immediately are the prices bid by each of the five bidders and any document, other than **Exhibit A**, circulated by MetCouncil staff to MetCouncil Transportation Committee members to explain the recommendation to award the Contract to First Transit.

Please let us know if costs will exceed \$500 to respond to this Government Data Practices Act request.

**I would appreciate you providing the prices for each bidder for the Contract and providing staff's analysis supporting their recommendation before today's Transportation Committee meeting. Because time is short, I would also appreciate you bringing this information to today's Transportation Committee meeting so that I can review this information during the Transportation Committee meeting.**

### **3. Transparency Concerns.**

As we discussed on Friday with Ms. Gutzmann, we are concerned about the egregious lack of transparency regarding the MetCouncil's recommendation to award the Contract to First Transit.

#### **A. Relative Weights of Evaluation Criteria.**

The RFP used for this solicitation provides no definition about the relative weights assigned to the eight award criteria used to score competing proposals. Please think about this: MetCouncil issued an RFP that is silent about how the MetCouncil will score competing proposals. This is a dangerous precedent because the lack of any meaningful disclosure about the weights assigned to evaluation criteria could lead to arbitrary scoring of competing proposals or after-the-fact justifying of award decisions.

The RFP says that there will be eight criteria used by MetCouncil to select a winning proposal. But Ms. Gutzmann acknowledged during our conversation that there is nothing in the RFP that identifies the relative weights of evaluation criteria.

#### **B. Pricing.**

For example, under MetCouncil's RFP, the price bid by each bidder is to be "approximately equal" in value to the other seven evaluation criteria. But there is nothing in the RFP that says whether price equals 60%, 55%, 50%, 45%, 40%, or any other percentage of the overall score assigned by the MetCouncil's Evaluation Panel. *See* RFP, p. 10. The RFP's promise to score each proposal's price component as "approximately equal" to the other seven factors is rather hollow as there was no way to know at the time bids were submitted whether price was more or less than 50% of the overall score.

How would any bidder and, just as important, how would any taxpayer know how the Contract is being scored if the price component of bids could be any percentage "approximately equal" to 50% of the overall score and there is no set percentage for assigning price to the total score received by each bidder?

#### **C. Changes to Evaluation Criteria After Bid Opening.**

Equally as bad, the Evaluation Panel could change its weighting of the eight evaluation criteria about the relative importance of bid prices after bids were opened. For example, MetCouncil may have internally decided before bids were due that price would be 50% of the total score assigned to a proposal. But after bids were opened, there is nothing in the RFP that guaranteed any consistency in the relative weights of evaluation criteria, including price, so MetCouncil may have assigned a 40% value to price after bids were submitted.

Because of the lack of definition in the RFP, the Evaluation Panel could play games and decide the relative weights of award criteria after bids were opened and after the contents of the five competing bids were known. This is not legal under Minnesota law. A public body has to announce criteria for evaluating bids before bids are opened and then actually score bids in the manner outlined in the solicitation.

**D. The Other Seven Evaluation Criteria.**

Ms. Gutzmann explained to me on Friday afternoon that the other seven evaluation criteria listed on page 9 of the RFP are listed in order of importance. In other words, Item #1 (Proposer experience in providing public transportation services) is more important than Items #2 - #7. But Ms. Gutzmann acknowledged to me during Friday's conversation that nothing in the RFP tells bidders or taxpayers the exact percentages of the overall scores assigned to each evaluation criteria.

This is problematic and violates Minnesota law. Because pricing for transit services is supposed to be "approximately equal" to the other seven evaluation criteria, there is no way for a bidder or a taxpayer to be able to determine how the five competing bids were evaluated.

Was Item #1 (Proposer experience in providing public transportation services) 20% of the overall score or was Item #1 18%, 16%, 14%, or some other percentage?

The risk of having new weights assigned to Ranking Criteria #1 - #7 after bids are opened and the contents of the bids are known leads to the potential for fraud, favoritism, or arbitrary and capricious scoring. Without telling bidders in advance and without confirming before bids were due the relative weights of all eight evaluation criteria in the RFP, MetCouncil and its Evaluation Panel could choose to score bids in any manner that they wanted **AFTER** bids were known.

**E. Attempt to Reserve Discretion to Employ Any Comparative Method to Evaluate Bids.**

Further, the RFP purported to reserve discretion to MetCouncil to use any method it wanted to evaluate bids after bids were opened. The RFP says that the Evaluation Panel "shall review the proposals using any comparative method[.]" See RFP, p. 10.

In other words, this means that the MetCouncil has no rules by which competing proposals were evaluated. Rules could change after bids were opened. Rules could change before bids were opened. And at no time did MetCouncil explain to bidders how their bids would be evaluated. Quite simply, the attempt in the RFP to reserve discretion to the MetCouncil to employ any "comparative method" to evaluate bids is an attempt to reserve discretion that the MetCouncil does not have. By not disclosing in advance how bids would be evaluated, the MetCouncil has chosen to go down a path that is not allowed under Minnesota law.



The lack of any definition to how bids were scored and the lack of any definition to the weights of each evaluation criteria leads to the risk that competing bids were scored in an unreasonable arbitrary and capricious manner.

#### 4. Was First Transit the Low Bidder?

On Friday, April 6, 2012, I asked Ms. Gutzmann to confirm the prices of the five bidders who submitted bids in response to the RFP.

Ms. Gutzmann explained to me that pricing information would not be released until **AFTER** the Contract is signed. Please reconsider this position as this has the impermissible consequence of cloaking contract award decisions in secrecy.

Please immediately disclose the price bid by First Transit.

The RFP directed proposers to submit Cost Proposal Forms. *See* RFP, p. 8. The RFP even says that **“Cost Proposals must be submitted in both electronic and hard copy form.”** *Id.* (bold emphasis original). Because MetCouncil received both electronic and hard copies of price proposals from the five bidders, MetCouncil staff should have easy access to the prices bid by each of the five bidders. Likewise, it should take less than five minutes to produce the pricing information and to produce the Cost Proposals submitted by First Transit and each of the other bidders. This information should be forwarded to the undersigned immediately and made available at today’s Transportation Committee meeting.

If a formal bid protest lawsuit is necessary and if the MetCouncil declines to provide the Cost Proposals, we will notify the applicable Court and/or Federal Transit Authority representative that MetCouncil declined to produce the Cost Proposals even though they had this information in their possession.

Both bidders and taxpayers have the right to know whether tax dollars are being providently spent and whether bidders are being treated fairly. By not producing pricing information until **AFTER** a contract is signed with MetCouncil, the MetCouncil is making it difficult for any member of the public to have any confidence in the process used to award a substantial, multi-million contract.

Because the RFP merely says that the price bid by each bidder is “approximately equal” in value to the other seven evaluation criteria, there is no way of knowing whether First Transit’s bid presents the lowest cost bid for the five year Contract. And, just as important, both bidders and taxpayers have a right to know the relative prices bid by each of the five proposers.

When I talked to Ms. Gutzmann on Friday, she explained to me that MetCouncil does not intend to publicly identify the prices of each bid until **AFTER** a Contract is signed. This is a mistake. Please reconsider this decision.

When the Transportation Committee meets today, the Committee members should publicly identify the prices bid by each of the five proposers and explain the rationale for recommending whether to award the Contract to any transit provider who does not provide the lowest cost of the transit services.

If the price bid by First Transit is \$16.6 million as set forth in the Transportation Committee's Advisory Information notice, then at least one of the five proposers submitted a bid that is \$1.0 million (or more) less expensive than First Transit's bid. During these economic times, can MetCouncil really afford to pay at least \$1.0 million more for transit services over the term of a five year contract?

#### **5. The RFP Is Illegal so the Contract Cannot Be Awarded.**

MetCouncil cannot award a transit contract to First Transit because MetCouncil's RFP procedure was illegal.

Minn. Stat. § 473.392 required MetCouncil to procure the transit service for the Contract by "competitive **bid**." See Minn. Stat. § 473.392 (emphasis supplied). Minnesota courts are clear that the fundamental purpose of "competitive **bidding** is to deprive or limit the discretion of contract making officials in the areas which are susceptible to such abuses as fraud, favoritism, improvidence, and extravagance." See *Griswold v. Ramsey County*, 65 N.W.2d 647, 652 (Minn. 1954) Thus, any competitive bidding procedure which defeats this purpose "even though it be set forth in the" solicitation "invalidates the contract" even in the absence of actual fraud. *Id.* Procedures that permit the procuring body to permit changes to or negotiation of the contract after bids are opened "emasculate the whole system of competitive bidding" and are for that reason illegal and invalid. *Id.*

MetCouncil's RFP procedure permitted the Council to negotiate with proposers after bids were submitted on February 28, 2012. See RFP, p. 10.

This RFP procedure (i.e., reserving the right to negotiate with bidders after bid opening) clearly violates the mandate in Minn. Stat. § 473.392 that transit contracts be awarded only by "competitive **bid**." The Council had and has no authority to award contracts for transit services using a request for proposal ("RFP") process or using a RFP that reserves the right to negotiate with bidders after bids are submitted.

There must be Legislative authority to use RFPs or to negotiate with proposers. For example, Minn. Stat. 16C.28 authorizes municipalities to use an RFP best value procurement procedure for construction projects where none existed previously. Minn. Stat. § 16C.02 subd. 12 defines the nature of the "request for proposal" or RFP procedure for best value procurements.

An RFP procedure is a procurement method that is different than the procurement method of using competitive bids. Minnesota Statute § 16C.02 subd. 11 defines the RFP procedure as a “solicitation in which the terms, conditions, and specifications are described and responses are not subject to negotiation.” Minn. Stat. 16C.02 subd. 11. Clearly, in order for the MetCouncil to use an “RFP” procedure, the Minnesota Legislature must have first delegated the authority to do so. *Griswold v. Ramsey County*, 65 N.W. 2d at 652-53.

The Minnesota Legislature did not grant MetCouncil the statutory authority to use the RFP process or even to negotiate with proposers after bids were submitted because Minn. Stat. § 473.392 requires “competitive **bidding**” – an RFP process that does not permit negotiation after bid opening.

As set forth above, we have requested MetCouncil to produce copies of all “standards, procedures and guidelines” adopted by MetCouncil under Minn. Stat. § 473.392. We are not aware of any such “standards, procedures and guidelines” adopted by the MetCouncil following published notice, comment, and voting. If such “standards, procedures and guidelines” were adopted, then they must comply with the Legislative authority provided in § 473.392.

Thus, any procurement procedures adopted by the MetCouncil that are anything other than “competitive bid” procedures are invalid because the Council only has authority to implement “competitive bid” procedures. “Competitive bidding” is a well known term of art in public procurements having been described in detail in *Griswold v. Ramsey County* and other similar cases. The distinction between RFP and competitive bidding procedures has also been acknowledged by the Legislature in Minn. Stat. § 16C.02 subds. 11 and 12 which contrasts the two types of procedures. “Competitive bidding” does not include RFP procedures with after-the-fact negotiation.

#### **6. MetCouncil Appears to Be Fast-Tracking Its Award Decision.**

We were more than surprised to learn that MetCouncil accelerated the time of its scheduled meetings to consider award of the Contract.

On April 2, 2012, MetCouncil issued an Advisory Information notice that the Contract award would be discussed at the Transportation Committee’s meeting on April 9, 2012, and the full MetCouncil would then meet on April 25, 2012. Enclosed for your convenient reference as **Exhibit C** is a copy of the Transportation Committee’s Advisory Information notice of the April 25<sup>th</sup> meeting.

However, a few days ago, a new Advisory Information notice was issued, changing the date of the full MetCouncil meeting to April 11, 2012, just two days after the Transportation Committee meeting. The effect of this time change is that there is virtually no opportunity for the public to voice any concern about the MetCouncil's contemplated actions. Last week, the public was told that the Transportation Committee would meet on April 9<sup>th</sup> followed by an April 25<sup>th</sup> meeting of the full MetCouncil, but now the full MetCouncil is meeting two weeks earlier to consider, among other things, the recommendation by the Transportation Committee.

Moving the MetCouncil meeting up by two weeks, coupled with the refusal to disclose pricing or scoring information, leads to serious concerns about the transparency of this public procurement. The Transportation Committee and the full MetCouncil should not vote on award of the Contract until AFTER all pricing and scoring information is made available and documents responsive to the Government Data Practices Act is released.

Although bids were due on February 28, 2012, the RFP says that bids must remain open for 120 days. *See* RFP, p. 9, para. 10. MetCouncil has 120 days from February 28, 2012, to consider the bids. During this approximate four month period and well BEFORE a contract is signed, all of the pricing and scoring information should be released so that the taxpaying public has confidence that this procurement is being conducted appropriately.

## **7. Abuse of Power.**

The MetCouncil should not engage in an abuse of its power by conducting a multi-million dollar procurement in secret. By not disclosing the scoring or pricing information before a contract is signed, MetCouncil is cloaking its decision-making in secrecy. Minnesota public entities are not supposed to award multi-million dollar contracts in secret. Procurements are supposed to be transparent.

MetCouncil is undermining its own credibility by not making the Cost Proposals and Technical Proposals available for inspection.

Under the procurement protocol established by MetCouncil, MetCouncil has attempted to keep from the public the scoring facts supposedly supporting its procurement decision until after a contract is signed with First Transit. Of course, once the Contract is signed, MetCouncil will then argue that it is too late for a taxpayer or a bidder to correct any arbitrary, capricious, or improvident decision MetCouncil may have made. It is against Minnesota law and public policy for MetCouncil to deny protesters and the public any effective procedural means to review and protest procurement decisions before a contract is signed.

MetCouncil should not abuse its own power and undermine its own authority by refusing to release pricing and scoring data for the five proposals. What possible good will result by keeping this information secret until after a contract is signed when each of the five bidders agreed that the information in their bids that they were submitting to MetCouncil was public data under the Government Data Practices Act?

## **8. AVL and Other Performance Criteria.**

In the last few years, MetCouncil spent millions of dollars for the AVL system. The AVL system was designed to provide metrics for on time bus routes provided by MetCouncil's vendors. The AVL system is capable of printing data showing the on-time bus routes for existing providers of transit services.

According to the AVL system that MetCouncil spent millions of dollars purchasing and implementing, Lorenz Bus Service has the highest AVL performance ranking. First Transit has a lower ranking than Lorenz Bus Service. Because First Transit has a lower percentage of on-time bus routes, it is arbitrary and capricious for MetCouncil's Evaluation Panel to score First Transit's proposal higher than Lorenz Bus Service's proposal.

## **9. Extension of Existing BE Line and Roseville Contracts.**

MetCouncil has an easy remedy to implement, rather than award the Contract to First Transit.

MetCouncil's existing contracts for the Bloomington-Edina ("BE") line and the Roseville line expire at the end of May 2012. However, MetCouncil has approached the transit companies who have existing contracts for the BE line and the Roseville line, and MetCouncil has asked both companies to extend their contracts by one month.

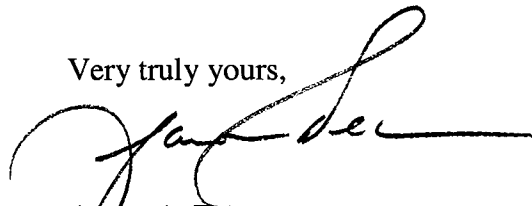
If MetCouncil chooses to issue a new solicitation, MetCouncil can easily extend the existing contracts for the BE line and the Roseville line for 30 days, 60 days, or another time period, so that MetCouncil can publish a new solicitation for a new five year contract that would comply with Minnesota law. MetCouncil cannot claim that bus service in Bloomington, Edina, or Roseville will end at the end of May 2012 when the contract mechanisms are in place to extend those transit contracts for relatively short periods of time.

If the MetCouncil chooses to go forward with this procurement and award to First Transit, even though there are known infirmities with the procurement and First Transit is not the low bidder, then MetCouncil cannot later complain when bidders, taxpayers, or both seek judicial or administrative relief.

## **10. Conclusion.**

MetCouncil should release all pricing and scoring information for the Contract immediately. MetCouncil should not sign a Contract with First Transit until the public has sufficient opportunity to inspect this data. Alternatively, MetCouncil should extend the BE line and Roseville line contracts and then issue a new RFP that complies with Minnesota law.

Very truly yours,



Aaron A. Dean

AAD/

Enclosures

- C: Mr. Steve Elkins, Chair, MetCouncil's Transportation Committee (w/encs.)  
Ms. Lona Schreiber, Vice-Chair, MetCouncil's Transportation Committee (w/encs.)  
Mr. James Brimeyer, MetCouncil Transportation Committee (w/encs.)  
Mr. Jon Commers, MetCouncil Transportation Committee (w/encs.)  
Mr. John Doan, MetCouncil Transportation Committee (w/encs.)  
Mr. Adam Duinck, MetCouncil Transportation Committee (w/encs.)  
Ms. Jennifer Munt, MetCouncil Transportation Committee (w/encs.)  
Mr. Edward Reynoso, MetCouncil Transportation Committee (w/encs.)  
Ms. Roxanne Smith, MetCouncil Transportation Committee (w/encs.)  
Federal Transit Administration (w/encs.)

# T Transportation Committee

**Meeting date: April 9, 2012**

**Council meeting: April 11, 2012**

## **ADVISORY INFORMATION**

**Date:** April 2, 2012  
**Subject:** Authorization to Award Contract for Bloomington & Roseville Area Transit Service  
**District(s), Member(s):** 5-Steve Elkins, 10-John Đoàn, 14-Jon Commers  
**Policy/Legal Reference:** Council policy 3-3 Expenditures – Procurement of Goods and Services over \$250,000  
**Staff Prepared/Presented:** Arlene McCarthy, Director MTS (651) 602-1754  
Micky Gutzmann, Director of Purchasing (651) 602-1741  
Gerri Sutton, Asst. Director Contracted Transit Services (651)602-1672  
John Harper, Supervisor Contracted Transit Services (651) 602-1744  
Bruce Dreier, Project Administrator (651) 602-1708  
**Division/Department:** Metropolitan Transportation Services (MTS)

### **Proposed Action**

That the Metropolitan Council authorize the Regional Administrator to execute a five-year contract with First Transit, Inc. to provide regular route transit service in the Bloomington and Roseville areas beginning June 2, 2012 through June 3, 2017, in an amount not to exceed \$19,785,108.

### **Background**

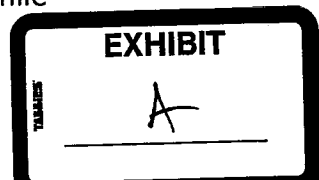
This contract contains local bus service in two locales within the Council service area. Weekday, Saturday, and Sunday service are provided in Bloomington, Edina, and Richfield; weekday and Saturday service are provided in Roseville, Falcon Heights, St. Paul and Shoreview.

### **Rationale**

Requests for proposals were publicly solicited and all known transit operators were directly invited to participate. Five proposals were received and evaluated by a five-member evaluation panel consisting of staff from Metropolitan Transportation Services, Metro Transit Service Development, and Scott County Transit. The panel evaluated the proposals on the following criteria: overall transit experience; extent of experience with similar services; driver training and selection; management, administrative, financial, and technical capabilities; vehicle maintenance practices; reporting capabilities; compliance with RFP requirements; and cost.

The evaluation panel evaluated and ranked all technical proposals. The panel then evaluated the cost proposals. The Evaluation Panel concluded that the proposal submitted by First Transit, Inc. is the most advantageous to the Council and recommends awarding the contract to First Transit.

The requested not to exceed amount of \$19,785,108 allows for a 20% increase in service hours compared to the base scope of work valued at \$16.6 million. A pricing structure that includes the ability to increase and reduce service allows the Council to adjust service hours, both up and down, during the five-year contract term while maintaining competitively procured rates.



Same week action is requested given the current contracts expire June 1, 2012. Approval by the Council on April 11, 2012 will provide the new contractor with adequate time to start the new contract on June 2, 2012.

**Funding**

Funding for this service is budgeted in the annual operating budget.

**Known Support/Opposition**

There is no known opposition to this item.



Proposers **must** submit a separate independent Cost Proposal for each package it wishes to propose on in accordance with the instructions in the Scope of Work. If a proposer submits cost proposals for multiple packages, it may submit a single set of Proposal Information and Proposer Certifications for all cost proposals.

**9. [Reserved- This section is unused in this RFP]**

**10. Withdrawal or Modification of Proposals**

Each proposal shall constitute a binding, irrevocable offer for a period of 120 days after the date the proposals are due. Proposals which have been submitted to the Council may be withdrawn by the Proposer only if a written withdrawal request is **physically received** by the RFP Administrator in person, by mail, or by facsimile prior to the time proposals are due. Proposals which are timely withdrawn shall be returned to the Proposer unopened.

A Proposer may submit a modified proposal prior to the time proposals are due. A modified proposal must be **physically received** by the RFP Administrator prior to the time proposals are due. If a modified proposal is timely submitted, the Council shall deem a previous proposal submitted by the Proposer to have been withdrawn and the previous proposal shall be returned to the Proposer unopened.

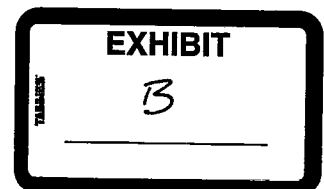
**11. Proposal Evaluation Criteria; Contract Award**

**A. Selection Criteria**

Proposals will be evaluated on the basis of the following criteria:

Ranking	Selection Criteria
1	Proposer experience in providing public transportation services;
2	Proposer size and scope of past experience, in relation to that required in this RFP;
3	Proposer driver training and selection program;
4	Proposer management, administrative, financial and technical capabilities;
5	Proposer vehicle maintenance practices;
6	Proposer reporting capabilities;
7	Proposer compliance with this RFP;
The <b>cost</b> of providing the services. Cost will be approximately equal in importance to a combination of all other criteria shown above.	

In evaluating the cost of providing the transit services, the Rate #1, Rate #2, Rate #3, and Rate #4 hourly rates for the five contract years will be weighted as follows:



# T Transportation Committee

**Meeting date: April 9, 2012**

**Council meeting: April 25, 2012**

## **ADVISORY INFORMATION**

**Date:** April 2, 2012  
**Subject:** Authorization to Award Contract for Bloomington & Roseville Area Transit Service  
**District(s), Member(s):** 5-Steve Elkins, 10-John Đoàn, 14-Jon Commers  
**Policy/Legal Reference:** Council policy 3-3 Expenditures – Procurement of Goods and Services over \$250,000  
**Staff Prepared/Presented:** Arlene McCarthy, Director MTS (651) 602-1754  
Micky Gutzmann, Director of Purchasing (651) 602-1741  
Gerri Sutton, Asst. Director Contracted Transit Services (651)602-1672  
John Harper, Supervisor Contracted Transit Services (651) 602-1744  
Bruce Dreier, Project Administrator (651) 602-1708  
**Division/Department:** Metropolitan Transportation Services (MTS)

### **Proposed Action**

That the Metropolitan Council authorize the Regional Administrator to execute a five-year contract with First Transit, Inc. to provide regular route transit service in the Bloomington and Roseville areas beginning July 1, 2012 through June 30, 2017, in an amount not to exceed \$19,785,108.

### **Background**

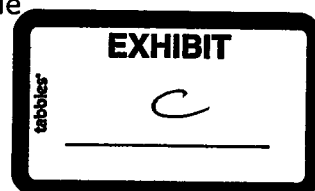
This contract contains local bus service in two locales within the Council service area. Weekday, Saturday, and Sunday service are provided in Bloomington, Edina, and Richfield; weekday and Saturday service are provided in Roseville, Falcon Heights, St. Paul and Shoreview.

### **Rationale**

Requests for proposals were publicly solicited and all known transit operators were directly invited to participate. Five proposals were received and evaluated by a five-member evaluation panel consisting of staff from Metropolitan Transportation Services, Metro Transit Service Development, and Scott County Transit. The panel evaluated the proposals on the following criteria: overall transit experience; extent of experience with similar services; driver training and selection; management, administrative, financial, and technical capabilities; vehicle maintenance practices; reporting capabilities; compliance with RFP requirements; and cost.

The evaluation panel evaluated and ranked all technical proposals. The panel then evaluated the cost proposals. The Evaluation Panel concluded that the proposal submitted by First Transit, Inc. is the most advantageous to the Council and recommends awarding the contract to First Transit.

The requested not to exceed amount of \$19,785,108 allows for a 20% increase in service hours compared to the base scope of work valued at \$16.6 million. A pricing structure that includes the ability to increase and reduce service allows the Council to adjust service hours, both up and down, during the five-year contract term while maintaining competitively procured rates.



**Funding**

Funding for this service is budgeted in the annual operating budget.

**Known Support/Opposition**

There is no known opposition to this item.

# T Transportation Committee

Meeting date: April 9, 2012

Council meeting: April 11, 2012

## ADVISORY INFORMATION

<b>Date:</b>	<b>April 2, 2012</b>
<b>Subject:</b>	<b>Authorization to Award Contract for Bloomington &amp; Roseville Area Transit Service</b>
<b>District(s), Member(s):</b>	<b>5-Steve Elkins, 10-John Đoàn, 14-Jon Commers</b>
<b>Policy/Legal Reference:</b>	<b>Council policy 3-3 Expenditures – Procurement of Goods and Services over \$250,000</b>
<b>Staff Prepared/Presented:</b>	<b>Arlene McCarthy, Director MTS (651) 602-1754 Micky Gutzmann, Director of Purchasing (651) 602-1741 Gerri Sutton, Asst. Director Contracted Transit Services (651)602-1672 John Harper, Supervisor Contracted Transit Services (651) 602-1744 Bruce Dreier, Project Administrator (651) 602-1708</b>
<b>Division/Department:</b>	<b>Metropolitan Transportation Services (MTS)</b>

### Proposed Action

That the Metropolitan Council authorize the Regional Administrator to execute a five-year contract with First Transit, Inc. to provide regular route transit service in the Bloomington and Roseville areas beginning June 2, 2012 through June 3, 2017, in an amount not to exceed \$19,785,108.

### Background

This contract contains local bus service in two locales within the Council service area. Weekday, Saturday, and Sunday service are provided in Bloomington, Edina, and Richfield; weekday and Saturday service are provided in Roseville, Falcon Heights, St. Paul and Shoreview.

### Rationale

Requests for proposals were publicly solicited and all known transit operators were directly invited to participate. Five proposals were received and evaluated by a five-member evaluation panel consisting of staff from Metropolitan Transportation Services, Metro Transit Service Development, and Scott County Transit. The panel evaluated the proposals on the following criteria: overall transit experience; extent of experience with similar services; driver training and selection; management, administrative, financial, and technical capabilities; vehicle maintenance practices; reporting capabilities; compliance with RFP requirements; and cost.

The evaluation panel evaluated and ranked all technical proposals. The panel then evaluated the cost proposals. The Evaluation Panel concluded that the proposal submitted by First Transit, Inc. is the most advantageous to the Council and recommends awarding the contract to First Transit.

The requested not to exceed amount of \$19,785,108 allows for a 20% increase in service hours compared to the base scope of work valued at \$16.6 million. A pricing structure that includes the ability to increase and reduce service allows the Council to adjust service hours, both up and down, during the five-year contract term while maintaining competitively procured rates.

Same week action is requested given the current contracts expire June 1, 2012. Approval by the Council on April 11, 2012 will provide the new contractor with adequate time to start the new contract on June 2, 2012.

**Funding**

Funding for this service is budgeted in the annual operating budget.

**Known Support/Opposition**

There is no known opposition to this item.