

ACTION TRANSMITTAL No. 2019-29

DATE: August 2, 2019

TO: Transportation Advisory Board

FROM: Technical Advisory Committee

PREPARED BY: Joe Barbeau, Senior Planner (651-602-1705)

SUBJECT: Anoka County Federal Funding Exchange Request

REQUESTED ACTION: Anoka County requests an exchange of federal funds from its CSAH 22 bridge project (SP # 002-622-036) and its TH 47/CSAH 116 intersection improvement (SP # 002-716-020) to its CSAH 11 railroad grade separation (SP # 002-611-036).

RECOMMENDED MOTION: That the Transportation Advisory Board recommend to the Metropolitan Council approval of Anoka County's federal funding exchange request with the following stipulations:

- All projects will be delivered in their current program year and subject to the Council's Program Year Policy.
- All projects will be completed as proposed in their original applications and subject to the Council's Scope Change Policy.
- Should either or both of the defederalized projects not be completed, Anoka County will reimburse the region the amount of federal funding assigned to the project(s) at the time of defederalization.
- The county will work with MnDOT and the Metropolitan Council to satisfy the vacated Disadvantaged Business Enterprise (DBE) requirements.
- The county will complete a resolution agreeing to the above.

BACKGROUND AND PURPOSE OF ACTION: Anoka County received Regional Solicitation funding for the following three projects in the 2016 and 2018 funding cycles:

1. County State Aid Highway (CSAH) 11 railroad grade separation (State Project Number (SP #) 002-611-036). 2016 Regional Solicitation. Program Year 2021 (following extension from original program year 2020). Federal funding: \$7,000,000.
2. Trunk Highway (TH) 47/CSAH 116 intersection improvement (SP # 002-716-020). 2018 Regional Solicitation. Program Year 2022. Federal funding: \$1,868,000.
3. CSAH 22 bridge widening over Rum River (SP # 002-622-036). 2018 Regional Solicitation. Program Year 2023. Federal funding: \$1,436,296.

Anoka County proposes to move the federal funds from projects 2 and 3 (totaling \$3,304,296) to project 1. This would bring the total federal amount for project 1 to \$10,304,296, while eliminating federal funding from the other projects. Project 1 is

shown in the draft 2020 to 2023 TIP with a project total of \$19,915,120. Therefore, the proposal would keep the local match below the 20% federally required minimum.

RELATIONSHIP TO REGIONAL POLICY: Projects that receive funding through the regional solicitation process must have significant changes (such as, but not limited to, scope changes or program year extensions) approved by TAB. There is no TAB policy specific to exchanging federal funds from one project to another. Federal fund exchange occurs on projects in Greater Minnesota and some parts of the country and, as such, is allowable per the Federal Highway Administration.

This requested funding exchange does not change any of these projects from a technical perspective. Each project will continue to be monitored by MnDOT Metro District State Aid to assure that they are completed as proposed and on time.

STAFF ANALYSIS: In 2015, two federal funding exchanges were approved by TAB. One request was from Hennepin County and the other one was from Scott County. Discussion on these two requests led to the formation of a work group to establish a federal funding exchange policy. Federal funds exchanges are common in Greater Minnesota and in other states because of potential time and cost savings of forgoing the federal process. This policy was never completed, primarily because of concerns with the loss of disadvantaged business enterprise (DBE) requirements when federal funds are removed from a project. The Metropolitan Council expressed aversion to allowing projects selected through the Regional Solicitation to avoid the DBE process. In exploring options, staff found that DBE requirements could not legally be enforced. Further, the Council's own Metropolitan Council Underutilized Business (MCUB) program could also not be legally enforced. Therefore, no enforceable proxy was found, and a policy was never completed.

Because there is no federal funding exchange policy and because the Council has historically been unwilling to allow for TAB-funded projects to skip the DBE process, staff recommends denial of this request.

Should the request be approved, staff recommends that it be done with the following stipulations:

- All projects will be delivered in their current program year and subject to the Council's Program Year Policy.
- All projects will be included in the Transportation Improvement Program (TIP).
- All projects will be completed as proposed in their original applications and subject to the Council's Scope Change Policy. MnDOT Metro District State Aid has agreed to monitor the defederalized projects the way it would without this action.
- Should either or both of the defederalized projects not be completed, Anoka County will reimburse the region the amount of federal funding assigned to the project(s) at the time of defederalization.
- The federal funds exchange approval should be conditional on the county completing a resolution agreeing to the above.

COMMITTEE COMMENTS AND ACTION: At its June 20, 2019, meeting, the TAC Funding & Programming Committee voted to recommend approval of the request to move federal funds from state project numbers 002-622-036 and 002-716-020 to state project number 002-611-036 with the following stipulations:

- All projects will be delivered in their current program year and subject to the Council's Program Year Policy.
- All projects will be completed as proposed in their original applications and subject to the Council's Scope Change Policy.
- Should either or both of the defederalized projects not be completed, Anoka County will reimburse the region the amount of federal funding assigned to the project(s) at the time of defederalization.
- The county will complete a resolution agreeing to the above.

Staff had recommended a stipulation that the defederalized projects be included in the TIP. This was not included in the motion because MnDOT expressed discomfort with including defederalized projects in the TIP.

Anoka County provided information not included in its original request. This included:

- Federal funding exchanges are allowed by USDOT and are fairly common.
- The county wishes to move the TH 47/CSAH 116 (project #2, above) from 2022 to 2021, which will be more difficult with federal requirements attached.
- Federal environmental permits are not in play.
- The projects to be defederalized do not meet criteria requiring noise abatement.
- Assuming a 15% DBE target (a target this is not predictable at this stage), only \$1.93 million would be encompassed by the DBE goal.
- The County is willing to work on enacting a non-binding DBE process modeled after federal and state programs. This would include:
 - Establish applicable DBE requirements for each of the projects. This would be accomplished by using a streamlined/modified process described in the "Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program published by the United States Department of Transportation.
 - Generally, follow the provisions contained in the Minnesota Department of Transportation DBE Special Provisions. Incorporate the applicable DBE requirements in its bidding documents and contracts.
 - Monitor contractors' compliance of DBE requirements throughout the contract, including a review of the final submittals upon completion of the work.
 - Establish a review committee to review and determine whether a bidder has made good faith efforts in complying with the DBE requirements. This committee would consist of the Division Manager of the Anoka County Employees Relations Department, the County Purchasing Department, and the County Administrator or their respective designees. The County Attorney, or his designee shall act as legal advisor to the committee.

While Anoka County prefers not to establish DBE requirements, the County expressed willingness to do so if required by TAB. Most members viewed the lost DBE as small in scale while viewing removal of federal requirements as efficient and good stewardship of funds. Therefore, a successful motion was made to approve the request without such requirement. Dissenters felt that defederalization's removal of DBE goals is counter to the council's equity goals. A motion was made to amend the original motion to include the stipulation that the Anoka County Board will apply a DBE equivalent to the defederalized projects. This amendment was not approved.

At its July 3, 2019, meeting, the Technical Advisory Committee voted to recommend approval of the request to move federal funds from state project numbers 002-622-036 and 002-716-020 to state project number 002-611-036 with the following stipulations:

- All projects will be delivered in their current program year and subject to the Council's Program Year Policy.
- All projects will be completed as proposed in their original applications and subject to the Council's Scope Change Policy.
- Should either or both of the defederalized projects not be completed, Anoka County will reimburse the region the amount of federal funding assigned to the project(s) at the time of defederalization.
- The county will work with MnDOT and the Metropolitan Council to satisfy the vacated Disadvantaged Business Enterprise (DBE) requirements.
- The county will complete a resolution agreeing to the above.

Along with information presented at the Funding & Programming Committee, Anoka County added, as a potential strategy to address DBE, using other programs such as the Central Certification (CERT) Program used by Hennepin County; Ramsey County; Minneapolis; and St. Paul or contributing to MnDOT's ADA Small Business Opportunity Pilot. For the latter, the county is willing to put an amount of funds targeted for DBE toward businesses in this program.

Since the TAC meeting, Anoka County, MnDOT, MnDOT's Advancing Equity Department, State-Aid, and the Council met to discuss the best path forward to meet TAC's approved motion of satisfying the DBE requirements. It was determined that the best option was MnDOT's ADA Small Business Opportunity Pilot Program (see attachment). Key points regarding the program include:

- MnDOT's Office of Civil Rights will review Anoka County's two proposed defederalized projects and set a DBE goal similar to if federal funds were used on the projects.
- Anoka County will add in this DBE amount (estimated at about \$350,000) into MnDOT's ADA Small Business Opportunity Pilot program. MnDOT will select the contractor to be used on \$350,000 of Anoka County projects (i.e., not on MnDOT's system).
 - The MnDOT program hires small businesses from a targeted list to construct and/or inspect ADA improvements on projects.
 - The pool of firms is from the Twin Cities area.
 - The focus on the program is DBE, Targeted Group Businesses (TGB), and Veterans. There is no requirement that the firms are DBE, but 100% of the firms in the first year of the program were DBE or DBE eligible.
 - The goal of the program is to build capacity of firms to hopefully be a DBE on bigger projects or be the prime contractor on larger projects.
 - MnDOT's inspector trains the selected firms onsite.
 - The program was awarded Rosa Parks Diversity Award by WTS
- DBE results will be communicated back to TAB via MnDOT State Aid.

ROUTING

TO	ACTION REQUESTED	DATE COMPLETED
TAC Funding & Programming Committee	Review & Recommend	6-20-2019
Technical Advisory Committee	Review & Recommend	7-3-2019
Transportation Advisory Board	Review & Recommend	
Metropolitan Council Transportation Committee	Review & Recommend	
Metropolitan Council	Review & Approve	



Anoka County

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April 25, 2019

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Mr. Paul Oehme
Funding and Programming Chair
Metropolitan Council
390 Robert St. North
St. Paul, MN 55101-1805

RE: Anoka County Federal Funding Transfer Request

Dear Mr. Oehme:

The purpose of this letter is to request your consideration and support of a federal funding transfer request between three Anoka County projects.

Anoka County proposes to transfer federal aid funding from the 2022 TH 47/CSAH 116 Intersection Area Improvement project in the cities of Anoka and Ramsey, and the 2023 CSAH 22 Bridge project over the Rum River in the city of Oak Grove, to the 2021 Foley Blvd Railroad Grade Separation project in the city of Coon Rapids. The following table summarizes the current and proposed federal funding details for each project:

Project No.	Project Name	Allocation Year	Awarded Funding	Proposed Funding	Funding Source
002-611-036	CSAH 11 (Foley Blvd) RR Grade Separation	2021	\$7,000,000	\$10,304,296	STBGP
002-716-020	TH 47/CSAH 116 Intersection Area Improvement	2022	\$1,868,000	\$0	STBGP
002-622-036	CSAH 22 Bridge over the Rum River	2023	\$1,436,296	\$0	STBGP

The current estimated construction cost for project SP 002-611-036 is \$19,914,120. The requested transfer of federal funds would increase the percentage of federal funding from 35.2% to 51.7% on said project. Anoka County will use State Aid and/or local funds to close the gap created by the proposed transfer of funds.

Each of these projects are priorities for the county and local communities. Anoka County commits to following the State Aid process and associated requirements in the delivery of projects SP 002-622-036 and SP 002-716-020. This commitment will be solidified through the adoption of a county board resolution agreeing to repay the region if, for any reason, the projects are not delivered.

If you would like to discuss the details of the request in more detail, please contact me at (763) 324-3103, or doug.fischer@co.anoka.mn.us.

Sincerely,

Douglas W. Fischer, PE
Transportation Division Manager/County Engineer

Purpose

Grow the pool of TGBs, DBEs, Vets and other small businesses capable of performing ADA inspection and construction in accordance with MnDOT specs.

- Small businesses gain greater opportunities in the market place to make infrastructure accessible to all Minnesotans.
- Small businesses gain the benefits from acting as a prime.
- MnDOT earns community trust by using its contracting power to reduce economic disparities.

Results through 6/30/19

1. 16 construction and 12 inspection contracts awarded in Metro since June 2018.
 - Total value construction contracts = \$712,880; average value \$44,500.
 - Total value inspection contracts = \$280,000.
2. All construction contracts were awarded to Disadvantaged Business Enterprises (DBE) and Targeted Group Businesses (TGB) even though MnDOT cannot restrict competition and must take the lowest quote.
 - 3 African-American-owned TGBs/DBEs won 12 construction contracts.
 - 1 woman-owned TGB won 4.
 - 10 small businesses quoted one or more construction contracts.
3. Inspection contracts were awarded to 4 TGBs/DBEs, including 3 minority-owned.
4. Seeing is believing: contractors requesting quote packages increased from 30 in June 2018 to 160 today; this year, twice as many small businesses enrolled in ADA-related trainings through Lake Superior College and MnDOT compared to last year.
5. The Pilot represented about 5% of MnDOT's FY19 ADA improvements.

Approach

1. Train small businesses in the basics of ADA specifications.
2. Identify walkways and ped ramps that require basic ADA refurbishment.
3. Contract the work using quick and simple contracting methods so businesses can demonstrate and develop their capacity.
4. Provide intensive support and feedback to contractors throughout.
5. Right-size contracts to reflect capacity of small businesses and to avoid attracting larger, more capable contractors.

Key Findings and Recommendations from First Season

1. The approach demonstrates an effective method of training ADA inspectors and construction contractors.
2. Waiving bond requirements opens the door for more small businesses.
3. 90% of surveyed businesses said they would quote on future ADA Pilot contracts.
4. 24% of small businesses surveyed said they did not have sufficient funds to bid on projects.
5. 24% of surveyed small businesses said they did not quote because they "already had too much work."
6. Dedicated staffing and funds are needed to sustain efforts and scale up.
7. To be more competitive, contractors need to be able to perform more complex ADA work, e.g. related to signals, utilities.
8. MnDOT's approach to developing small projects should be on a scale consistent with the value of small projects.
9. Broadcast and solicit quotes earlier in and throughout the season.



Comments from Small Businesses

"It's clear MnDOT is wanting to work with small businesses" *MN Best*

"Now I have the option to sub on different types of work" *Pride Cleanup*

"I was used to focusing on details of construction but ADA took that to a new level" *PES*

"It was a good experience and I would like to continue to work on these projects" *Create Construction*

"Bring the program to Greater MN" *MN Best*

"Was good to be able to pay a livable wage" *Pride Cleanup*

"The tight specifications were a challenge, but I grew to understand the necessity of each" *PES*

List of Completed Construction Contracts, June 1, 2018 – June 30, 2019

City	Location	Contractor	\$ Value
St. Paul	Beverly Rd & St. Anthony Ave.	JD Pride/Pride Cleanup	\$22,895
St. Paul	St. Anthony Ave. & N. Kent St.	Perkins & Perkins	\$32,775
St. Paul	Concordia Ave, Lex. to Oxford	Create Construction	\$27,126
MPLS	SE 11th Ave. & Talmage Ave. SE	JD Pride/Pride Cleanup	\$58,250
MTKA	TH7, Highland Frontage Rd.	Booker Construction	\$26,900
MTKA	TH7, Highland Frontage Rd.	Booker Construction	\$36,660
MPLS	32nd Ave. S. & 41st St.	Create Construction	\$55,515
MPLS	Buchanan St. & Winer St. NE	Perkins & Perkins	\$27,000
MPLS	E. Hennepin Ave. & SE 12th Ave.	Booker Construction	\$26,900
St. Paul	Oxford St. & St. Anthony	Perkins & Perkins	\$38,520
MPLS	Minnehaha Ave. & Cedar	JD Pride/Pride Cleanup	\$53,490
St. Paul	St. Anthony Ave., Fry St. to Snelling	JD Pride/Pride Cleanup	\$85,579
MPLS	Cedar Ave. & Minnehaha	Booker Construction	\$73,805
MPLS	Cedar Ave. S. & I94	Booker Construction	\$74,493
MPLS	32 nd Ave. S & 42 nd St. E.	Create Construction	\$42,000
MPLS	36 th Ave. S & 46 th St. E.	Create Construction	<u>\$30,908</u>
			\$712,816

List of Professional/Technical ADA Inspection Contractors, June 1, 2018 – June 30, 2019

MN Best, Asian woman TGB & DBE, 4 contracts	\$90,000
Professional Engineering Services (PES), woman-owned TGB & DBE, 4 contracts	\$90,000
IMO Consulting Group, Hispanic-owned TGB & DBE, 3 contracts	\$75,000
Midwest Select Contracting, African-American woman TGB & DBE, 1 contract	<u>\$25,000</u>
	\$280,000

List of Businesses who Quoted 1 or more Construction Contracts, June 1, 2018 – June 30, 2019

Business Name	Number of Quotes	Number Awarded	Certification	Certification Status	Business Address
Booker Construction	12	5	DBE	B	336 WATER ST W, SAINT PAUL, MN 55109
Concrete Idea, Inc.	3	0	None	None	13961 44TH LN NE, ST MICHAEL, MN 55376
JD Pride, Pride Clean Up	12	4	TGB, DBE	B	77 7TH AVENUE NE, MINNEAPOLIS, MN 55413
IYAWE & Associates	1	0	TGB	B	2500 NEW BRIGHTON BLVD. MINNEAPOLIS, MN 55418
Perkins & Perkins Construction	11	3	DBE	B	3223 NORTH 45TH STREET, OMAHA, NE 68104
Create Construction	7	4	TGB	W	18517 100TH AVE N, MAPLE GROVE, MN 55311
Extreem Forestry, LLC	2	0	TGB, DBE	I	404 12TH ST. NW, ISANTI, MN 55040
Quad E Companies	3	0	TGB, DBE	W	23130 WOODLAND RIDGE DRIVE, LAKEVILLE, MN 55044
MN Concrete Specialties	1	0	None	None	6520 EDENVALE BLVD, EDEN PRAIRIE, MN 55346
Chael Remodeling	1	0	TGB, DBE	H	2523 UPTON AVE NORTH, MINNEAPOLIS, MN 55411

B: African American-owned, H: Hispanic-owned, I: American Indian-owned, W: Woman-owned