

ACTION TRANSMITTAL No. 2021-08

DATE: February 10, 2021

TO: Transportation Advisory Board

FROM: Technical Advisory Committee

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SUBJECT: Program Year Change Request: City of Brooklyn Center, City of Brooklyn Park, Hennepin County, and MnDOT

REQUESTED ACTION: The City of Brooklyn Center, City of Brooklyn Park, Hennepin County, and MnDOT request a program year change for four Highway 252 projects to align funding in 2026 as part of a larger MnDOT-led project.

RECOMMENDED ACTION: That the Transportation Advisory Board consider technical committee comments and determine whether to approve moving the following four TH 252-related Regional Solicitation grants to 2026:

- TH 252/66th Ave intersection improvements
- TH 252/70th Ave pedestrian overpass
- TH 252/85th Ave intersection improvements
- TH 252/Brookdale Dr intersection improvements

BACKGROUND AND PURPOSE OF ACTION: Based on extraordinary circumstances, the City of Brooklyn Center, City of Brooklyn Park, Hennepin County, and MnDOT are requesting an exception to TAB's Program Year Policy (attached, starting on page 12). The project partners would like to move four awarded Regional Solicitation projects to 2026 to align with construction of the larger MnDOT-led Highway 252/I-94 project. In June 2020, staff brought this request to the TAB Executive Committee, who then asked staff to route the item through the technical committees for their feedback in granting the possible exception.

Over the course of three Regional Solicitation cycles, three different agencies have applied for and been awarded Regional Solicitation funding for four separate projects in the Highway 252 corridor (see Table 1, as well as the project descriptions/one-pagers submitted with their Regional Solicitation applications). In 2018, MnDOT received \$119 million in Corridors of Commerce funding to convert Highway 252 to a freeway and add a MnPASS lane to Highway 252/I-94 from Highway 610 to Dowling Avenue. All the individual projects selected through the Regional Solicitation were incorporated into the larger Corridors of Commerce project as the environmental process began.

This consolidation of projects is required because all the projects were considered connected actions by federal environmental law. Connected actions are defined as actions that trigger other actions; actions that cannot or will not proceed unless other actions are taken previously or simultaneously; actions are interdependent parts of a larger action and depend on the larger action for justification. All the individual projects are now considered connected actions in the

environmental document’s purpose and need statement. Therefore, despite regional funding policy, the local agencies could not get Federal Highway Administration (FHWA) approval to construct their projects at this time even if they wanted to do so.

In fall of 2019, due to emerging environmental issues, MnDOT, in coordination with FHWA, changed the project environmental document from an environmental assessment (EA) to an environmental impact statement (EIS), which are only used on a few select projects (e.g., Rethinking I-94, Mall of America, and other projects that may have major environmental impacts). This change was necessary to garner further public input, continue to vet alternatives like the interchange location and transit options, and further evaluate local concerns and impacts potentially arising from the development of the project. Moving to an EIS process has pushed the project letting beyond the years programmed for the Regional Solicitation projects. The project is now scheduled to be let in state fiscal year 2026 (July 2025-June 2026), making 2026 program funds the earliest the local partners could use the Regional Solicitation funds. It is for these reasons that the project applicants are requesting that their funds be shifted to 2026.

Table 1: Regional Solicitation Awards for the Highway 252 Corridor

Funding Cycle	Applicant	Project	Award Amount	Existing Year	Req Year	Summary
2016	Brooklyn Center	TH 252/66th Ave intersection improvements	\$7,000,000	2023	2026	Page 7
2016	Brooklyn Center	TH 252/70th Ave pedestrian overpass	\$1,902,640	2023	2026	Page 8
2018	Hennepin County	TH 252/85th Ave intersection improvements	\$7,000,000	2023	2026	Page 9
2020	Brooklyn Park	TH 252/Brookdale Dr intersection improvements*	\$10,000,000	2025	2026	Page 10
Totals			\$25,902,640			

*This project was awarded funds in the 2020 Regional Solicitation.

RELATIONSHIP TO REGIONAL POLICY: The Transportation Advisory Board (TAB) manages the \$90 million annual program of projects programmed by the Regional Solicitation. The request does not follow TAB’s Program Year Policy, which states that the maximum length of a program year extension is one year and that projects are only eligible for one program year extension (two of the projects have already received program year extensions). Due to extenuating circumstances, the applicants are requesting an exception to the policy.

STAFF ANALYSIS: While the program year policy only allows for one-year, one-time program year extensions, this is a unique circumstance. MnDOT is constructing the project and the local applicants are bound to MnDOT’s timelines and the environmental process that is federally required. The more in-depth environmental process will allow for greater levels of public involvement and project input, which are activities that TAB values. In addition, the timeline delay and longer environmental process will result in a project that provides positive improvements and eliminates, mitigates, or reduces overall negative impacts on stakeholders and the environment.

From a programming perspective, there are no known issues with the request. There are enough projects to fill the \$15,902,640 funding hole left in 2023. The \$10,000,000 funding hole in 2025 would be filled as part of the 2022 Regional Solicitation cycle.

COMMITTEE COMMENTS AND ACTION: At its January 21, 2021, meeting, the TAC Funding & Programming Committee voted unanimously to forward comments to the Technical Advisory Committee. Members also discussed the need to potentially revisit the Program Year Policy and add guidance for when exceptions to the policy can occur (e.g., when a project is delayed because the project sponsor conducts a longer Environmental Impact Statement instead of the more common Environmental Assessment).

At its February 3, 2021, meeting, the Technical Advisory Committee voted unanimously to forward comments to the Transportation Advisory Board. In addition to comments provided by staff and the Funding & Programming Committee, TAC added that the lag between project selection (2017 in the case of two) and a 2026 programming is concerning. Members also suggested that the Program Year Policy needs to consider what type of projects should be considered for exceptions to the standard one-year and one-time rules. Examples discussed included adding significant cost to the project or increasing construction impacts if the funding is not moved to a new year.

Members also discussed the question of whether projects that are tied to mega projects like a transitway have “independent utility,” as is required in the Regional Solicitation or if they are wholly dependent on another larger project. When scored, it is difficult to determine the cost effectiveness of one small piece of a larger project. Lastly, members asked if MnDOT Central Office could help in the shifting of program years and balancing the books since the TH 252 project will ultimately be delivered by MnDOT. MnDOT staff indicated that they would need to examine this possibility.

Table 2: Pros/Cons of Granting Exception to Program Year Policy

Pros	Cons
-The more detailed environmental process, which is causing the delay, will provide greater input opportunities for the public and stakeholders. Given the population of people of color in the area (40%), the increased public involvement is a valuable activity.	-There is time for local agencies to reapply next funding cycle for at least some of the funding again (rules restrict both interchanges from being awarded funds in the same cycle).
-Pulling the funding may result in one or more of the Regional Solicitation projects not being included in the larger project or other project elements not being included to stay within budget. Losing funding may also potentially jeopardize Corridors of Commerce funding for the project, which was scored based on the Regional Solicitation funding being secured.	-There is risk that the environmental process does not select the location or project elements described in the Regional Solicitation applications.
-Pulling the funding places financial burden on local agencies, especially Brooklyn Center and Brooklyn Park, to come up with further local match for the larger project.	-The approach is not consistent with how TAB deals with other program year extension requests.
-Due to the Corridors of Commerce funding and expanded project area, local agencies cannot get approval to deliver the project until MnDOT's environmental process is complete.	-This would lead to a nine-year gap between awarding and letting of two of the projects (standard is three- to-five years)
-TAB has the ability to help with the success of one the largest highway mobility projects planned in the region in the next decade.	
-Limited financial impact to the overall Regional Solicitation program.	
-Combining projects is better for the travelling public due to minimization of construction impacts.	

ROUTING

TO	ACTION REQUESTED	DATE SCHEDULED/COMPLETED
TAC Funding & Programming Committee	Review & Recommend	1/17/2021
Technical Advisory Committee	Review & Recommend	2/3/2021
Transportation Advisory Board	Review & Approve	2/17/2021