

ACTION TRANSMITTAL No. 2019-29

DATE: June 26, 2019

TO: Technical Advisory Committee

FROM: TAC Funding & Programming 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 Technical Advisory Committee recommend to TAB 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 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 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.

ROUTING

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



Anoka County

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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