

TRANSPORTATION ADVISORY BOARD

Metropolitan Council, 390 Robert Street North, Saint Paul, Minnesota 55101

NOTICE OF A MEETING
of the
FUNDING AND PROGRAMMING COMMITTEE

Thursday, June 16, 2016
1:30 P.M. – Metropolitan Council, Room LLA
390 Robert Street N, Saint Paul, MN

AGENDA

- 1) Call to Order
- 2) Adoption of Agenda
- 3) Approval of the Minutes from the May 19, 2016 meeting*
- 4) TAB Report – Information Item
- 5) Brooklyn Center Safe Routes to School Scope Change – Action Item 2016-38*
- 6) TIP Amendment; Brooklyn Center Scope Change Request – Action Item 2016-39*
- 7) FY 2017 Federal Funding Reallocation – Action Item 2016-36*Federal Funds Exchange Policy – Information Item*
- 8) Federal Funds Exchange Policy – Information Item*
- 9) Other Business
- 10) Adjournment

*Attachments

Please notify the Council at 651-602-1000 or 651-291-0904 (TTY) if you require special accommodations to attend this meeting. Upon request, the Council will provide reasonable accommodations to persons with disabilities.

TRANSPORTATION ADVISORY BOARD
Metropolitan Council
390 N. Robert St., St. Paul, Minnesota 55101-1805

Minutes of a Meeting of the
FUNDING AND PROGRAMMING COMMITTEE
May 19, 2016

MEMBERS PRESENT: Tim Mayasich (chair, Ramsey County), Lynne Bly (MnDOT Metro), Colleen Brown (MnDOT Metro State Aid), Innocent Eyoh (MPCA), Anna Flintoft (Metro Transit), Craig Jenson (Scott County), Jane Kansier (MVTA), Karl Keel (Bloomington), Andrew Korsberg (MnDNR), Jim Kosluchar (Fridley), Elaine Koutsoukos (TAB), Paul Oehme (Chanhassen), Ryan Peterson (Burnsville), Steve Peterson (Metropolitan Council), John Sass (Dakota County), Carla Stueve (Hennepin County), Michael Thompson (Maplewood), Anne Weber (St. Paul), Andrew Witter (Anoka County), and Joe Barbeau (staff)

OTHERS PRESENT: Mary Gustafson (Metro Transit)

1. Call to Order

The meeting was called to order just after 1:30 p.m.

2. Adoption of Agenda

MOTION: Koutsoukos moved to adopt the agenda. Seconded by Thompson. The motion was approved unanimously.

3. Approval of the Minutes from the April 21, 2016 Meeting

MOTION: Kansier moved to approve the minutes. Seconded by Ryan Peterson. The motion was approved unanimously.

4. TAB Report – Information Item

Koutsoukos reported on the May 18, 2016, TAB meeting, at which TAC Chair Steve Albrecht reported that work is continuing on the federal funds exchange policy. He also presented an overview of the 2016-19 funding reallocation information that had been presented at TAC.

Three action items were approved:

1. 2016-33: Revision of TAB Bylaws, which will go to the Council for concurrence.
2. 2016-28: Scope change for the Hennepin County CSAH 46 Bridge over Godfrey Parkway, modifying the bridge design.
3. 2016-32: Release of the 2020-2021 MnDOT Metro District Highway Safety Improvement Program (HSIP) Solicitation.

5. Draft 2017-2020 Transportation Improvement Program – Action Item

Barbeau provided a brief presentation on the Transportation Improvement Program (TIP) and funding sources and mode share within. Bly provided a presentation on funding distribution, significant projects, and key changes. Mary Gustafson, Metro Transit, provided a presentation on transit funding sources, key projects, and formula funds.

MOTION: Koutsoukos moved to recommend that the draft TIP be adopted by TAB for release for a public comment period. Seconded by Steve Peterson. The motion was approved unanimously.

6. Policy and Process to Exchange Federal Funds between Projects – Action Item

Barbeau said that some TAB members have expressed concern with the removal of disadvantaged business enterprise (DBE) goals for project from which federal funds are removed. Koutsoukos added that some

members may suggest trying to keep a DBE goal while removing all other requirements that can be forgone when federal funds are removed.

Thompson suggested local agencies could be asked to state how they will address the issue. Mayasich said that would become a political discussion at TAB.

Keel suggested tracking how many fund swaps result in no DBE for a project as opposed to resulting in a local substitute.

Witter said that transferring funds from smaller to larger projects could actually increase the overall statewide goal.

Mayasich said that it would be helpful if larger counties could relay their substitute programs before moving the issue to TAB.

Eyoh asked whether there have been concerns related to loss of the environmental processes. Koutsoukos replied that TAB has not expressed such concerns.

Steve Peterson asked how the benefits of funds exchanges can be shown. Barbeau replied that he has informally heard that projects see a 10 to 30 percent cost reduction, though he is not aware of any documented results.

Mayasich suggested that a primer be created on how a process to include DBE would work.

Gustafson said that transit projects are less likely than highway projects undergo a funds exchange because TAB-funded projects tend to include a lot of federal funds. She added that the Metropolitan Council's Office of Diversity & Equal Opportunity has limited staff time and would be hard-pressed to oversee more projects.

MOTION: Thompson moved to reconvene the Federal Funds Exchange Work Group to consider options and how to provide clarity to TAB. Seconded by Oehme.

Keel asked whether federal funds exchange requests could be considered case-by-case in the interim, to which Koutsoukos replied in the affirmative.

The motion was approved unanimously.

7. Other Business

Koutsoukos said that the Regional Solicitation online system training sessions have been scheduled. She added that a tutorial will be created.

Eyoh reported that he will not be in attendance for the June and July meetings.

Steve Peterson said that the Council will host a "Plan It" kickoff webinar to help communities update their comprehensive plans by 2018.

8. Adjournment

The meeting was adjourned.

ACTION TRANSMITTAL No. 2016-38

DATE: June 7, 2016
TO: TAC Funding and Programming Committee
PREPARED BY: Joe Barbeau, Senior Planner (651-602-1705)
SUBJECT: Scope Change Request for City of Brooklyn Center Evergreen School Area Trail and Sidewalk System
REQUESTED ACTION: The City of Brooklyn Center requests a scope change to its Evergreen School Area Trail and Sidewalk System TAP-funded intersection signal project (SP # 109-591-001) to remove installation of curb-and-gutter from the project.
POSSIBLE ACTIONS: The Committee can recommend approval or denial of the request. If it recommends approval, the Committee can recommend full federal funding or a reduction in federal funds.

BACKGROUND AND PURPOSE OF ACTION: The City of Brooklyn Center was awarded \$275,392 in the 2013 Transportation Alternatives Program (TAP) solicitation to enhance the walking environment near a school. The improvement will add 3,634 feet worth of sidewalk to 70th Avenue North, Camden Avenue North, and 72nd Avenue North, in the vicinity of Evergreen Park Elementary School.

The City is requesting that curb-and-gutter, which is to be included along Camden Avenue North and 72nd Avenue North (2,784 cumulative feet) be eliminated from the project.

RELATIONSHIP TO REGIONAL POLICY: Projects that receive funding through the Regional Solicitation process are subject to the regional scope change policy. The purpose of this policy is to ensure that the project is designed and constructed according to the plans and intent described in the original application. Additionally, federal rules require that any federally-funded project scope change must go through a formal review and TIP amendment process if the project description or total project cost changes substantially. The scope change policy and process allow project sponsors to make adjustments to their projects as needed while still providing substantially the same benefits described in their original project applications.

A TIP amendment request accompanies this request.

STAFF ANALYSIS: Working with the scorers from the Solicitation, Metropolitan Council staff reviewed the original project and scoring. Scorers reported a total of a two-point score reduction; a negligible change that indicates the project would have been funded had it been originally applied for as shown in this scope change application.

The City reports that the estimated cost for curb-and-gutter at the time of application was \$27,500. Staff adjusts this number through the following steps:

- X 80% federal proportion (\$22,000)
- X 1.04% for inflation adjustment that was added at selection (\$22,880)

- Reducing contingencies, removals, and mobilization by 8.31% (the proportionate cost of curb and gutter), adding the 4% inflation adjustment, and reducing by 20% for local cost (\$27,649.55)

Assuming the scope change is approved, a federal reduction of \$27,650 would reflect the reduction in work.

ROUTING

TO	ACTION REQUESTED	DATE COMPLETED
TAC Funding & Programming Committee	Review & Recommend	
Technical Advisory Committee	Review & Recommend	
Transportation Advisory Board	Review & Approve	



**CITY OF
BROOKLYN CENTER**

A GREAT PLACE TO START, A GREAT PLACE TO STAY

www.cityofbrooklyncenter.org

May 13, 2016

Mr. Timothy Mayasich
Chair, TAC Funding and Programming Committee
Metropolitan Council
390 Robert Street North
St. Paul, MN 55101

RE: Scope Change Request
Evergreen School Area Trail and Sidewalk System
SP 109-591-001
City of Brooklyn Center

Dear Mr. Mayasich:

The City of Brooklyn Center received SRTS funding in 2014 for the construction of sidewalk/trail system along Camden Avenue, 72nd Avenue and 70th Avenue, and improved crosswalk at the intersection of Camden/70th Avenues identified in the 2013 Safe Routes to School Planning study for the Evergreen School non-bus area (See Exhibit A). The funding is in the 2015-2018 Transportation Improvement Program for the fiscal year 2017 in the amount of \$344,240 (\$275,392 Federal Funds). The purpose of this letter is to request a scope change for the project.

Specifically, the scope change is the removal of the curb and gutter from the project. The City believes that the curb and gutter installation would be more appropriately constructed with the concurrent and adjacent street and utility improvement project in this area. The cost of the curb and gutter was estimated at \$27,500 in 2014 dollars.

We request the Funding and Programming Committee's support and consideration for this scope change. Should you have any questions or require further information, please do not hesitate to contact me. Thank you.

Sincerely,

Michael Albers, P.E.
Project Engineer

Enclosure

CC: Steve Lillehaug, P.E., P.T.O.E., Director of Public Works/City Engineer
Colleen Brown, MnDOT State Aid

City Hall

6301 Shingle Creek Parkway
Brooklyn Center, MN 55430-2199
763.569.3300 • Fax: 763.569.3494

Community Center

6301 Shingle Creek Parkway
Brooklyn Center, MN 55430-2199
763.569.3400 • Fax: 763.569.3434

Police & Fire Departments

6645 Humboldt Avenue North
Brooklyn Center, MN 55430-1853
763.569.3333 • Fax: 763.561.0717

Evergreen Park Elementary Recommended Improvements Map

- A** Move crossing guard and crosswalk to where the students are crossing OR institute an enforcement program to encourage them to cross at this location.
- B** Consider a walking school bus or a Walking Wednesdays program for this location.
- C** Install a sidewalk to fill gap on 70th Ave.
- D** Students coming from east of 252 should be encouraged to use the Evergreen Park parking lot and walk in from there.
- E** Install sidewalk or paved path.
- F** Install sidewalk.
- G** Install sidewalk.
- H** Install sidewalk or paved path.

Potential Projects for School Travel Routes

Evaluate any improvements in coordination with schools

- I** Add crosswalk on south leg and consider a bumpout in the parking lane on the southwest corner of the intersection.
- J** Install crosswalks and consider moving crossing guard to this location to accommodate existing traffic patterns.
- K** Consider additional crosswalks to focus to student travel. Possible locations include: 72nd Ave and Emerson Ave, 72nd Ave and Fremont Ave, and 72nd Ave and Girard Ave.
- L** Add crosswalk at the southern crossing of Humboldt to connect existing sidewalks.
- M** Add a crosswalk to the north leg to connect existing sidewalks.
- N** Install a crosswalk.
- O** Add crosswalk on the east leg of the intersection.



Install sidewalks on the south side of 70th Ave (left) and the west side of Camden Ave (upper right) to better serve students approaching from the east side of the school.



The location of this marked crossing on 70th Ave does not facilitate the current crossing behaviors of most students. Consider moving crosswalk to match existing crossing patterns or institute an education/enforcement program to shift behavior.



	Traffic Signals		Recommended Sidewalks/Paths
	Bus Loading Zone		High Visibility Crosswalk
	Parent Loading Zone		ADA Compliant Curb Ramp
	Adult Crossing Guards		Rapid Flash Beacon
	Child Crossing Guards		School Crossing Assembly
	School Grounds		Pedestrian Hybrid Beacon
	School Travel Route		
	Improvements not to scale		



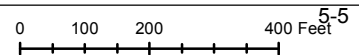
Legend

- Proposed trail/sidewalk (0.69 Miles)
- - - Curb removed from project scope (2,784 feet)



**Evergreen School Area
Trail and Sidewalk System**
Proposed Trail/Sidewalk Locations

Public Works - Engineering
May 17, 2016



ACTION TRANSMITTAL No. 2016-39

DATE: June 7, 2016

TO: TAC Funding and Programming Committee

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

SUBJECT: 2017-2020 TIP Amendment: Evergreen School Area Trail and Sidewalk System

REQUESTED ACTION: The City of Brooklyn Center requests an amendment to change the scope of its Evergreen School Area Trail and Sidewalk System (SP # 109-591-001) to remove curb-and-gutter.

RECOMMENDED MOTION: That TAC F&P recommend to TAC adoption of an amendment into the 2017-2020 TIP to remove curb-and-gutter from the City of Brooklyn Center's Evergreen School Area Trail and Sidewalk System project (SP # 109-591-001).

BACKGROUND AND PURPOSE OF ACTION: This TIP amendment is needed due to a change in scope and project description. The project is programmed for state fiscal year 2017. This amendment would remove reference to curb-and-gutter from the project description, as the City of Brooklyn Park would like to remove curb-and-gutter from the project.

Due to the timing of the City's scope change request, this accompanying TIP amendment will not be able to be reflected in the final 2017-2020 TIP currently in production. Therefore, this amendment is requested to be approved pending approval of the 2017-2020 TIP. The 2017-2020 TIP is scheduled to be approved by the Metropolitan Council on September 28, after which time it will be provided to MnDOT and then in federal review. Should this amendment be approved by the Metropolitan Council prior to federal approval of the 2017-2020 TIP, it will not be official until after that approval is granted.

RELATIONSHIP TO REGIONAL POLICY: Federal law requires that all transportation projects that will be funded with federal funds must be in an approved TIP and meet the following four tests: fiscal constraint; consistency with the adopted regional transportation plan; air quality conformity; and opportunity for public input. It is the TAB's responsibility to adopt and amend the TIP according to these four requirements.

STAFF ANALYSIS: The TIP amendment meets fiscal constraint because the federal and local funds are sufficient to fully fund the project. This amendment is consistent with the Metropolitan Council Transportation Policy Plan, adopted by the Metropolitan Council on January 14, 2015, with FHWA/FTA conformity determination established on March 13, 2015. Approval of this TIP amendment must be contingent on the approval of the accompanying scope change and approval of the 2017-2020 TIP by FHWA during the fall of 2016. The Minnesota Interagency Air Quality and Transportation Planning Committee determined that the project is exempt from air quality conformity analysis. The analysis has resulted in a conformity determination that the projects included in the

2017-2020 TIP meet all relevant regional emissions analysis and budget tests. The 2017-2020 TIP will conform to the relevant sections of the Federal Conformity Rule and to the applicable sections of Minnesota State Implementation Plan for air quality. Public input opportunities for this amendment are provided through the TAB's and Council's regular meetings.

ROUTING

TO	ACTION REQUESTED	DATE COMPLETED
TAC Funding & Programming Committee	Review & Recommend	
Technical Advisory Committee	Review & Recommend	
Transportation Advisory Board	Review & Adopt	
Metropolitan Council Transportation Committee	Review & Recommend	
Metropolitan Council	Review & Concurrence	

Please amend the 2017-2020 Transportation Improvement Program (TIP) to modify this project in program year 2017. This project is being submitted with the following information:

PROJECT IDENTIFICATION:

SEQ #	STATE FISCAL YEAR	A T P	D I S T	ROUTE SYSTEM	PROJECT NUMBER (S.P. #) (Fed # if available)	AGENCY	DESCRIPTION include location, description of all work, & city (if applicable)	M I L E S
	2017	M	M	Ped / Bike	109-591-001	Brooklyn Center	<p>Evergreen School area trail & sidewalk system, Brooklyn Center. New trail/sidewalks with curb-and-gutter and ped curb ramps along Camden Ave from 73rd Ave to 70th Ave, along 72nd Ave from Bryant Ave to Camden Ave and along 70th Ave from .05 Mi W of Camden</p> <p>Evergreen School area trail & sidewalk system, Brooklyn Center. New trail/sidewalks with ped curb ramps along Camden Ave from 73rd Ave to 70th Ave, along 72nd Ave from Bryant Ave to Camden Ave and along 70th Ave from .05 Mi W of Camden</p>	.71

PROG	TYPE OF WORK	PROP FUNDS	TOTAL \$	FHWA \$	AC \$	FTA \$	TH \$	OTHER \$
EN	Grade and Surface	STPBG (TAP)	\$344,240 \$315,640	\$275,392 \$247,742				\$68,848 \$67,898

PROJECT BACKGROUND:

1. Briefly describe why amendment is needed (e.g., project in previous STIP but not completed; illustrative project and funds now available; discretionary funds received; inadvertently not included in TIP).

This TIP amendment is required due to a change in scope and project description. This amendment would remove curb-and-gutter from the project, resulting in a minor cost reduction. The 2017-2020 TIP is scheduled to be approved by the Metropolitan Council on September 28, after which time it will be provided to MnDOT and then in federal review. Should this amendment be approved by the Metropolitan Council prior to federal approval of the 2017-2020 TIP, it will not be official until after that approval is granted.

2. How is fiscal constraint maintained as required by 23 CFR 450.216 (check all that apply)?

- New Money
- Anticipated Advance Construction
- ATP or MPO or MnDOT Adjustment by deferral of other projects
- Earmark or HPP not affecting fiscal constraint
- Other X

The project's cost is decreasing. Both FHWA and the City of Brooklyn Center will incur a reduced cost.

CONSISTENCY WITH MPO LONG RANGE PLAN:

This amendment is consistent with the Metropolitan Council Transportation Policy Plan, adopted by the Metropolitan Council on January 14, 2015, with FHWA/FTA conformity determination established on March 13, 2015.

AIR QUALITY CONFORMITY:

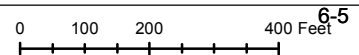
- Subject to conformity determination
- Exempt from regional level analysis X*
- N/A (not in a nonattainment or maintenance area)

*Exempt Project Category AQ2 (pavement resurfacing and/or rehabilitation)



**Evergreen School Area
Trail and Sidewalk System**
Proposed Trail/Sidewalk Locations

Public Works - Engineering
May 17, 2016



ACTION TRANSMITTAL No. 2016-36

DATE: June 10, 2016

TO: TAC Funding and Programming Committee

PREPARED BY: Amy Vennewitz, Deputy Director, Finance and Planning (651 602-1508)
Elaine Koutsoukos, TAB Coordinator (651-602-1717)
Steve Peterson, Planning Analyst (651-602-1819)
Joe Barbeau, Senior Planner (651-602-1705)

SUBJECT: Fiscal Year 2017 Federal Funds Reallocation

REQUESTED ACTION: Recommend a list of projects to allocate \$17.5 million of 2017 funds

RECOMMENDED MOTION: That TAC Funding & Programming Committee recommend to TAC a list of projects to allocate \$17.5 million of 2017 funds

BACKGROUND AND PURPOSE OF ACTION: A combination of factors including: 1) the recent passage of the FAST Act with its increased funding levels, 2) project withdrawals, 3) projects closing out under-budget, and 4) increased federal funds for Minnesota due to national redistributions, have had a significant positive impact on the amount of federal funding available to the region. For 2017, 2018, and 2019 program years, there is a total of \$32,745,183 available for reallocation that is distributed by year as follows:

Federal Funds Available for 2017, 2018, and 2019

Year	Amounts
2017	\$17,498,822
2018	\$8,375,328
2019	\$6,871,033
Total	\$32,745,183

Staff indicated to TAB at its April 20, 2016, meeting that they would bring back options for reallocating these funds consistent with the TAB's Federal Funds Management Process (attached). TAB also requested that staff consider the modal split of these extra funds. In the calculation shown below, staff assigned funding from withdrawn projects, or reductions in federal awards due to scope changes, to the original project mode (i.e., funding from a withdrawn roadway project would be assigned to the roadway mode). New FAST Act funds were assigned to a mode based on the mid-point of TAB's approved modal targets (i.e., 58% for roadways, 27% for transit and TDM, and 15% for bicycle/pedestrian). Combining these two approaches together yields the following modal split targets:

Modal Targets for 2017, 2018, and 2019

Mode	Amounts	% of Total
Roadways	\$22,027,133	67%
Transit and TDM	\$7,048,344	22%
Bicycle and Pedestrian	\$3,669,705	11%
Total	\$32,745,183	100%

Given the project funding options available, exactly hitting these targets in 2017 may not be possible. Following selection of funding options for 2017, staff will bring forward options for 2018 and 2019 that are consistent with these overall modal targets. The 2018 and 2019 funds will be allocated as part of the 2016 Regional Solicitation. It is anticipated that TAB will select these projects in January 2017.

STAFF ANALYSIS: Staff has compiled the 2017 funding options described below based on the priorities in TAB’s Federal Funds Management Process. In addition, staff worked with MnDOT State-Aid and contacted both funded and unfunded projects from the last Regional Solicitation in order to ascertain whether projects would be able to move forward in 2017. The Federal Funds Management Process states that the first priority for use of future-year funds will be inclusion in a future TAB solicitation process if at all possible. This is not possible for 2017 funds, given that project selection will not be until January, 2017.

As shown below, fully funding the Minneapolis Bicycle Coalition project (submitted in the 2015 Travel Demand Management solicitation), which only received \$105,000 of its \$239,000 request due to a lack of total funds and its position as the lowest-ranked funded project in the 2015 TDM Solicitation, is a potential first step. One project previously selected for 2018 can be advanced to 2017. This would allocate \$4,506,620.

Project Advancement (This step is considered a “given” under the Federal Funds Management Process.)

Project	Category	Type	Fed Request	2017 \$ Remaining	Notes
Initial Funds Available in 2017				\$17,498,822	
Minneapolis Bicycle Coalition	TDM	Bringing Project to Full Funding	\$134,000	\$17,364,822	Received partial funding as last project selected in 2015 TDM Solicitation.
Metro Transit Penn Ave Bus Purchase	Transit Expansion	Project Advance	\$4,368,620	\$12,996,202	Want to advance 2018 project to 2017

Based on the proposed recommendation above, there is \$12,996,202 yet to be allocated for 2017. In addition to this step, the following options or combination thereof could be recommended for allocation of the remaining funds:

Option 1: Fund Unselected Projects from a Past Solicitation

Sponsors of the projects listed below have indicated that they can meet all TAB and federal requirements for delivery in the 2017 program year.

Option 1: Fund Unselected Projects from a Past Solicitation

Project	Category	Type	Fed Request	2017 \$ Remaining	Notes
Initial Funds Available in 2017				\$12,996,202	
Dakota County CSAH 28 Connector	Roadway Expansion	2014 Solicitation	\$5,611,760	\$7,384,442	Top-ranked unfunded 2014 RE project
TLC Transportation Leadership for Cities	TDM	2015 TDM Solicitation	\$66,696	\$7,317,746	Non-capital project; low program year risk
Metro Transit Mobility Ecosystem	TDM	2015 TDM Solicitation	\$300,000	\$7,017,746	Non-capital project; low program year risk
SouthWest Transit Electric Buses	Transit Expansion	2014 Solicitation	\$1,600,000	\$5,417,746	

Staff also recommends that should any unselected projects from a past solicitation be selected for 2017 funding, no program year extensions be allowed.

Option 2: Fund Unique Projects

Four requests were made for 2017 funds based on the multiple notifications sent to potential project sponsors of this opportunity. The TAC F&P Chair and MnDOT State-Aid staff reviewed unique project request to determine whether they met the qualifying requirements:

1. Provide a description of the regional benefits of the project
2. Substantiate that the project is federally eligible
3. Describe why the project does not fit into one of the existing 10 application categories
4. Provide a preferred year of funding
5. Supply a federal funding request amount and budget

The request letter for each unique project is attached. The projects are shown in the order in which the project applications were submitted.

Option 2: Fund Unique Projects

Project	Applicant	Federal Request	Notes
Initial Funds Available in 2017: \$12,996,202			
Technician Training	MPCA	\$40,000	Request was lower than the minimum federal award threshold for any of the 10 applications types
Travel Behavior Inventory	Metropolitan Council	\$1,000,000	Meets qualifying requirements
Diesel Retrofit	MPCA	\$1,166,633	In the past, TAB has not funded privately-owned vehicles; federal eligibility uncertain
Bike Corridor Slope Restoration	Hennepin County	\$1,420,800	Not eligible since the project can apply as part of the Multiuse Trails and Bicycle Facilities application category as a gap in the trail system

Option 3: Pro-rate Remaining Federal Funds Up to the Federally Allowed Maximum

The following 2017 projects could absorb more federal funds and remain at or above the 20% local match minimum.

Option 3: Prorating Funds to Over-Matched 2017 Projects

Project	Mode
Bloomington CSAH 28 Interchange	Roadway
Dakota Co CSAH 42 Reconstruct	Roadway
Hennepin Co CSAH 81	Roadway
Dakota Co Trail (TH 110)	Multiuse Trails
Dakota Co Big Rivers Trail	Multiuse Trails
Scott Co West Trail	Multiuse Trails
Three Rivers Nine-Mile Creek Trail	Multiuse Trails
Metro Transit MOA Station	Transit
Metro Transit Lake St Station	Transit
Hopkins Park & Ride	Transit
Nice Ride Densification and Infill Initiative	TDM
St. Paul Smart Trips Trip Planning	TDM

RELATIONSHIP TO REGIONAL POLICY: The options provided are consistent with the TAB’s adopted Federal Funds Management Process. The use of regional funds for a unique project is consistent with the process adopted by TAB for projects that fall outside of the Regional Solicitation application categories.

ROUTING

TO	ACTION REQUESTED	DATE COMPLETED
TAC Funding & Programming Committee	Review & Recommend	
Technical Advisory Committee	Review & Recommend	
Transportation Advisory Board	Review & Adopt	

TAB Federal Funds Management Process

Regionally selected projects (i.e. those projects selected by TAB through the regional solicitation process) in the Twin Cities TIP can be advanced or deferred based on TAB policy, project deliverability and funding availability, provided fiscal balance is maintained. The process assumes some projects will be deferred, withdrawn, or advanced. This process establishes policy and priority in assigning alternative uses for federal transportation funds when TAB-selected projects in the TIP are deferred, withdrawn, or advanced. This process also addresses the distribution of the limited amount of federal funds available to the region at the end of the fiscal year, known as “August Redistribution.” This process does **not** address how to distribute new federal dollars available through larger, specific programs (i.e., ARRA). TAB will make separate decisions specific to those kinds of programs and timing.

Current Program Year Funds

For funding that is available due to project deferrals or withdrawals, the funds shall be reallocated as shown in the below priority order. When there is insufficient time to go through the TAB committee process, TAB authorizes staff (Minnesota Department of Transportation (MnDOT) Metro District State Aid or Metropolitan Council Grants Department, as appropriate), working with the TAB Coordinator, to reallocate funds to projects that have been selected through the regional solicitation per the below priorities on TAB’s behalf.

Reallocation priorities for available funding programmed for the current fiscal year:

1. Regionally selected projects in the same mode slated for advanced construction/advanced construction authority (AC/ACA)¹ payback that have already advanced because sponsors were able to complete them sooner. If more than one project is slated for AC/ACA payback, the projects using the smallest amount of federal funding will be funded first. Partial AC/ACA payback can be paid on a project up to available levels of funds.
2. Projects in the same mode slated for AC/ACA payback that have been moved due to previous deferrals. If more than one project is slated for AC/ACA payback, the projects using the smallest amount of federal funding will be funded first. Partial AC/ACA payback can be paid on a project up to available levels of funds.
3. Regionally selected projects in the same mode that are able to be advanced.
4. Pro-rate remaining federal funds to regional solicitation current program year projects in the same mode in the original program year up to the federally allowed maximum.
5. Select a regionally-selected project(s) from another mode to pay back or advance using steps 1-4 above. Should this action be used, TAB shall consider the amount when addressing modal distribution in programming the next regional solicitation.

Future Program Year Funds

While history shows that most deferrals and withdrawals will be in the current program year, even current year withdrawals can affect future year funding by advancing a project from a future year into the current year. For future-year funds, the TAB Coordinator will work with MnDOT Metro State Aid and/or Metro Transit Grants staff, Metropolitan Council staff and

¹ Note: Advanced construction (AC) is used for Federal Highway Administration-funded projects. Federal Transit Administration-funded projects use advanced construction authority (ACA).

project sponsors to provide a set of options to be considered by the TAC Funding & Programming Committee, TAC, and TAB.

The first priority for use of future-year funds will be to include the funds in a future TAB solicitation process if at all possible. When not possible, TAB should first consider items 1-3 and 5 from the above list. It can also consider other options such as selecting an unfunded project from the most recent regional solicitation² that could be delivered within the required timeframe. Other options could include setting up a special solicitation, depending on the amount of funds and time available, or other measures as TAB deems appropriate to address unique opportunities. TAB will consider the established “Guiding Principles” in making its decisions.

² Note that projects must be selected prior to December 1 of the program year.

Sponsoring Agency: Minnesota Pollution Control Agency

Contact: Rocky Sisk
State Program Admin Coordinator
651.757.2173
rocky.sisk@state.mn.us

Problem:

The Minnesota Pollution Control Agency (MPCA) regularly receives complaints or whistleblower calls describing illegal vehicle modifications occurring in MN resulting in high to severe emissions, sometimes visible as dense plumes of black smoke. It is estimated that each long haul diesel truck with emission control modification can produce up to 300 times the amount of oxides of nitrogen (NO_x) as a non-modified, properly maintained new truck. With gasoline vehicles, approximately 10% of the vehicles on the road produce nearly 50% of the vehicle emissions. Most major U.S. cities have vehicle emissions testing programs to help locate those vehicles that produce large amounts of emissions. Other communities empower a large number of repair facilities to inspect vehicles to locate the ones with missing, improperly maintained, or bypassed emissions control devices. Minnesota currently has no way to identify, locate, track or suggest repairs to these high emitting vehicles.

Project Summary:

The MPCA will create an educational video and training outreach package to prevent and discourage vehicle emission modifications that defeat vital emission controls in cars and trucks. The goal is to teach automotive and heavy duty diesel technicians (and future technicians) about the air quality and health impacts, as well as the federal laws and financial repercussions, associated with illegal vehicle modifications.

Background:

As a small pilot project, MPCA staff worked with metro area technical colleges to recognize opportunities to help minimize the incidence of illegal modifications on the vehicles that operate in and on the roads of Minnesota. The MPCA, with guidance from the mobile sources technical representatives of the Environmental Protection Agency (EPA) created a comprehensive slide presentation to help educate students as to a variety of repercussions resulting from altering, bypassing or removing a motor vehicles emissions control devices.

After giving this presentation to students and faculty at a technical college and discussing the potential benefits of working with the automotive technician training industry, we realized there is a large need for more comprehensive, professionally developed training information. This information will assist instructors and fleet managers on the merits and ethics of properly working on a vehicle's emissions control components, reducing the incidence of tampering, and eliminating the unnecessary vehicle emissions associated with illegally altering the pollution control components of a motor vehicle, both light duty and heavy duty.

Project:

Hire a multi-media communication company to:

- Hold 2-3 focus groups for
 - automotive technical college students and instructors
 - vehicle repair shop owners and employees
- Create vehicle emissions prevention – training video based on existing MPCA PowerPoint and information learned from the focus groups.
- Make 3,000 copies of the video on a CD or memory stick
- Distribute educational material and training CD's to mailing list of repair shops.
- Distribute educational material and training CD's, as well as pre and post video questionnaire, to area technical colleges
- Develop an additional (unduplicated) mailing list of repair shops and distribute the remainder of videos and training material

Working with college car and truck repair instructors, we will create a training package to help educate technical students throughout Minnesota on environmental, health, economic, legal and social aspects of repairing pollution control components associated with on-road transportation vehicles. We would hire a consultant to develop the curriculum, information, audio and video messaging, and any associated outreach congruent to this initiative. Then we would work with the technical colleges and repair shops in MN to distribute this information comprehensively to insure maximum coverage with minimal disruption to established curriculum and procedures. Other information sharing avenues will be pursued such as YouTube videos with links to a new MPCA web page, narrated slide presentations for statewide distribution, as well as information sharing with vehicle repair associations.

We anticipate the overall cost of this initiative will be \$50,000. That money will be used to hire a professional media production agency to develop and distribute the outreach package throughout MN. After the information is distributed, the MPCA will work with technical schools to evaluate student acceptance of the message, and measure student behavior modifications resulting from the education materials. We will continue to promote this initiative and share this information well into the future, so this project will have long lasting positive impacts throughout the region.

Goals:

Reach all new automotive technical students throughout Minnesota and teach them the social, economic and environmental benefits of proper vehicle maintenance along with the consequences and legal repercussions of tampering. It is our belief that minimizing illegal modifications on vehicles repaired in MN, as well as proper repairs to vehicles that have been serviced elsewhere, will result in improved air quality as well as enhance the economic vitality of the automotive repair industry in MN. We need these students to understand that they represent the professional character of the automotive repair industry, (both light duty and heavy duty vehicles) and, as such, have a responsibility to abide by the law. Students will also learn that they need to educate their customers on the benefits of proper maintenance, and the many ramifications of illegal modification to a vehicle's emissions control components.

Regional Benefits:

The successful application of the materials created for this project will result in a variety of regional benefits. First and foremost would be the reduction in vehicle emissions resulting from properly maintained vehicles operating within the state of MN, including the Twin Cities metropolitan area. Additionally, there would be economic, health and social benefits from this project, since educated technicians working at repair shops would be following the laws and making appropriate repairs. Customers would be ultimately educated as to why illegal modifications are not permitted, and health issues such as asthma attacks and upper respiratory problems could be reduced due to the reduction of harmful pollutants. We know that if you bypass or remove certain emissions control components from heavy duty diesel vehicles such as over the road trucks, those vehicles can produce up to 300 times more Oxides of Nitrogen (NOx), and up to 60 times the amount of Particulate Matter (PM) than they were designed to produce. If we can prevent one incident of tampering through this project, it can be equivalent to removing up to 300 new trucks from the roads of MN if you look at NOx.

Unique Project:

This project does not fall under any of the listed application categories on the Metropolitan Council 2016 Regional Solicitation guidance documents. It is our understanding that this project would best be categorized as a "Unique Project" for evaluation purposes for the 2017 FY federal fund distribution cycle.

Federal Funding Eligibility:

This project would be federally eligible to receive CMAQ federal funds under 23 US Code SS149- Congestion Mitigation and Air Quality Improvement Program, which states that the "project is likely to contribute to a high level of effectiveness in reducing air pollution." This program has the ability to dramatically reduce vehicle emissions from on road vehicles, including over the road (OTR), long haul trucks.

Budget:

\$40,000 CMAQ federal funds + \$10,000 MPCA funds = \$50,000 total cost

Approximate Budget Breakdown-

- Contractor to conduct series of focus group meetings \$20,000
- Contractor work with MPCA to create and edit 30- minute training videos \$24,000
- Contractor to make 3,000 CD copies of training video \$3,000
- Contractor to distribute 2,500 CD copies to MN training and repair facilities \$3,000

The MPCA would hire a consultant to develop the curriculum, information, audio and video messaging. Once the information has been created, we will work with the contractor to distribute the information throughout the MN technician training industry, both public and private institutions and to repair shops via MPCA's small business unit. Additionally, the MPCA will work with these instructors to insure the information is properly disseminated to students, and make sure there are appropriate resources to answer questions created by the training program.

Funding Year:

We would prefer the 2017 funding cycle, but we are willing to work with future funding cycles if 2017 is not available.

June 6, 2016

Elaine Koutsoukos
Transportation Advisory Board Coordinator
390 North Robert Street
Saint Paul, MN 55101

Dear Ms. Koutsoukos,

The Metropolitan Council requests TAB's support of the Travel Behavior Inventory (TBI) with 2017 funding through the Unique Projects category of the 2016 Regional Solicitation.

The Council has conducted a Travel Behavior Inventory (TBI) every ten years since the 1940s. This data both informs transportation planning directly and is required for our regional travel demand model which forecasts the impacts of highway and transit projects. For example, the model is used extensively in New Starts forecasting and in environmental analysis for roads and transit projects across the region. The model is reviewed by USDOT and EPA, and without an adequate regional model the region would be unable to obtain federal transportation funding for major projects.

In 2015, the Council performed an evaluation of all aspects of the TBI. The evaluation was conducted by a national expert, and done in cooperation with regional partners, including MnDOT, the University of Minnesota, and local governments. The recommendations of the evaluation, presented to TAB in early 2016, are to transition the TBI from a decennial event to a 10-year program, with more frequent and regular surveys and model updates. This will provide more up-to-date data for policymakers and recognize and assimilate rapid changes in travel and transportation needs. It will give the region better and more current data, resulting in projects whose impacts we can better and more meaningfully forecast. The data collection program and regional model are critical tools in making sound and defensible transportation decisions.

The 2017 request is to fund the first two years of the new TBI Program. This will consist of:

1. A 2017/2018 "kick-start" household interview survey. This survey will be larger than the biennial surveys envisioned in the program recommendation in future years in order to provide more immediate data at the start of the program. The survey will be administered to approximately 0.5% of households in the region. Similar to the survey in previous TBIs, it will collect information on all of the travel components: time, mode, purpose, location, of each individual in a household. New to this survey, we will be using current state-of-practice methods of surveys over multiple days collected through smartphones. Each person in a household will be tracked by their smartphone, which will detect when

they traveled and ask them questions about their travel either at the end of each day or immediately after a trip. This survey continues to be the central activity of the TBI.

2. A data purchase from a third-party vendor to provide information on travel patterns of people traveling into the region from outside, both visitors and regular commuters.
3. A model update to incorporate information from the household survey and the 2016 Transit On-Board survey (underway)

The TBI project is eligible for Surface Transportation Block Grant Program (STBGP) federal funds under 23 USC §133(b)(8): Highway and Transit Research and Development and under 23 USC §133(b)(10): Surface Transportation Planning Programs.

This TBI project is being submitted as a Unique Project given it is not the implementation of a highway, transit, bicycle, pedestrian or TDM project; as such, it does not fit in any of the ten Regional Solicitation application categories and most of the measures would not apply to a data collection and model development project.

Funding is preferred in year 2017 to provide for consultant procurement and pre-survey testing in 2017 followed by the survey work in 2018.

The total project budget for this phase is \$2.5 million. This budget includes:

- \$2.1 million for the 2018 household survey
- \$200,000 for the external data purchase
- \$200,000 for the model update

The Council is requesting \$1.0 million in 2017 STBGP funds. This will be accompanied by \$1.0 million in Council federal planning funds and \$500,000 (the 20% local match) from internal Council sources to fully fund the \$2.5 million 2017/2018 project.

Future requests for unique project funding will be made for elements of the TBI Program in 2019 and beyond.

Council staff are available to make a presentation to TAB on this request or to respond to any questions.

Sincerely,



Arlene McCarthy
Director, Metropolitan Transportation Services

Cc: Amy Vennewitz, Mark Filipi, Jonathan Ehrlich

A Clean Diesel Collaboration

Letter of Interest - Unique Projects

Sponsoring Agency: Minnesota Pollution Control Agency (MPCA)

Contact: Mark Sulzbach; 651-757-2770; mark.sulzbach@state.mn.us

Partner Organization: Environmental Initiative

Contact: Bill Droessler; 651-253-3908; bdroessler@environmental-initiative.org

1. Project Description and Regional Benefits - The MPCA will co-manage an innovative clean diesel project with the nonprofit, Environmental Initiative. We are requesting \$1,166,622.50 in federal funds, which will be matched with \$883,422.50, for a total project cost of \$2,050,045. The MPCA and Environmental Initiative will partner with Upper River Services (URS), a nonprofit full-service river operator and Eureka Recycling, a nonprofit waste and recycling hauler. Funds will be used to repower older, unregulated heavy-duty diesel engines to new emission standards and replace older diesel vehicles with new vehicles at higher emission tier levels. All proposed activities and technologies are U.S. EPA certified. Equipment to be repowered or upgraded includes one triple-engine towboat, two dock cranes, and two skid loaders owned by URS; all of which operate between the firm's two shipyards located in Ramsey County. The project also allows Eureka to replace five recycling trucks operating in Ramsey County – that would reduce direct exposure of emissions in St. Paul neighborhoods. Because of the new trucks' efficiencies, Eureka will reduce the size of their fleet - also reducing idling time, fuel usage, all of which further reduce citizen exposure to emissions.

Fleet partners were selected given their location within or near to an air toxics assessment area. This region of Minnesota is one of the areas closest to violating federal air quality standards. These fleets also operate near some of Minnesota's most vulnerable populations. The Metropolitan Council, the region's planning organization, identified regionally concentrated areas of poverty in a June 2015 study.¹ These areas include at least 40% of residents living in poverty and at least 50% of residents are people of color (ACP50). Upper River Services operates in the heart of an ACP50 area, which includes a Latino community on the West Side of Saint Paul, the second largest Hmong population in the United States on the East Side of Saint Paul, and vibrant African American communities. Over 60% of residents live in poverty in neighborhoods closest to the project area. These repowers and replacements will directly benefit communities most vulnerable to the adverse impacts of air pollution.

In addition, downtown Saint Paul is home to 74,000 workers and 8,100 residents² who are exposed to diesel emissions from waterfront operations, not to mention other users of downtown Saint Paul amenities, including the State Capitol complex, Science Museum, Children's Museum, Xcel Center, Union Depot, CHS Field, and a large number of regional parks. Because of the area's dense population and diverse mix of users and industries, emission reduction projects centered around downtown Saint Paul disproportionately reduce exposure to harmful diesel emissions for a broad variety of communities across the economic spectrum.

This project provides significant, cost effective regional air quality, health, and economic benefits. There is no more effective Congestion Mitigation and Air Quality Improvement (CMAQ) strategy for air quality benefits than diesel emission reduction activities. According to Federal Highway Administration analysis of CMAQ projects, diesel emission reduction work was the most cost-effective strategy at reducing both ozone precursors and fine particulate matter.³ According to the EPA, each federal dollar invested in clean diesel projects has leveraged as much as \$3 from other government agencies, private organizations, industry, and nonprofit organizations, generating between \$5 and \$21 in public health benefits. Every dollar invested in diesel reductions yields an estimated \$13 in health and economic benefits. Both the MPCA and the Environmental Initiative have more than a decade of experience and a proven track-record of working in partnership to voluntarily reduce diesel emissions.⁴

In terms of quantifying the emission benefits, this project's 25-tons in fine particulate matter (PM2.5) emission reductions, would be the equivalent to removing 22,800 average cars from operation.

¹ metro council.org/METC/files/59/59e72e05-559f-4541-9162-7b7bf27fdebf.pdf

² <https://www.stpaul.gov/DocumentCenter/View/71868.pdf>

³ https://www.fhwa.dot.gov/environment/air_quality/cmaq/research/safetea-lu_phase_1/safetealu1808.pdf

⁴ <http://www.environmental-initiative.org/our-work/clean-air/project-green-fleet>
<https://www.pca.state.mn.us/air/cleaning-diesel-engines-minnesota>

2. Federal Eligibility - This project is federally eligible to receive Surface Transportation Block Grant Program or Congestion Mitigation Air Quality federal funds. A similar clean diesel project was funded through this process in 2008 (MPCA/MnDOT Agreement No. 92963), which successfully retrofitted 425 heavy duty city, county and state trucks in the Twin Cities metro area with emission reduction equipment. Clean diesel projects are also supported with these federal funds in other states in U.S. EPA Region 5. EPA Region 5 lauded a similar marine engine repower as “a perfect example of the type of CMAQ public/private partnerships that are allowed and encouraged by both the EPA and Federal Highway Administration and which have been successfully undertaken in several parts of the country.” The current federal transportation funding bill requires that 25% of CMAQ funds be used for fine particle (PM2.5) emission reduction projects if the area is designated as nonattainment for PM2.5. The Twin Cities region is now in attainment, but is very close to violating the PM2.5 and ozone standards, which are likely to be tightened in coming years.

3. Project’s Unique Element - Per the category definitions, this project’s clean diesel activities do not fit into any of the other 10 existing application categories. These clean diesel activities cannot be evaluated against the scoring protocol for any of the application categories, other than air quality.

4. Preferred Year of Funding - We prefer funding in FY2017. But if not funded in this selection process, we would like to remain eligible for funding in later years.

5. Budget and Federal Funding Requested - All of the federal funding requested in this proposal will go toward direct project implementation costs, either for the new equipment or the purchase and installation of the repowered engines. Fleet partner URS is providing a 30% match and Eureka is providing a 50% match, both of which are a higher than required funding match rate. Each partner understands is committed to the listed matching amounts.

The project activities as delineated in the chart below, can be separated. The Transportation Advisory Board could decide to fund all or only select segments or vehicles/equipment included in this clean diesel project.

Activities	Outputs	Outcomes - Lifetime emission reductions	Partner Match	Federal Request	Total
Repower one towboat	Three 475hp unregulated marine engines repowered to Tier-III standard	<i>NO_x: 518.682 tons PM_{2.5}: 22.752 tons HC: 8.556 tons CO: 166.824 tons</i>	\$150,900 (30% match)	\$352,100	\$503,000
Repower two heavy-duty cranes	Two 230hp heavy-duty engines repowered to Tier-IV standard	<i>NO_x: 15.616 tons PM_{2.5}: .974 tons HC: .552 tons CO: 2.24 tons</i>	\$36,000 (30% match)	\$84,000	\$120,000
Replace two skid steer loaders	Two skid steer loaders replaced with Tier-IV standard	<i>NO_x: 3.748 tons PM_{2.5}: .864 tons HC: .851 tons CO: 4.933 tons</i>	\$25,500 (30% match)	\$59,500	\$85,000
Replace 5 recycling trucks	5 2003 model trucks replaced with 2017 model	<i>NO_x: 13.978 tons PM_{2.5} 0.564 tons HC: 0.562 tons CO: 2.781 tons</i>	\$671,022.50 (50% match)	\$671,022.50	\$1,342,045
Total	12 vehicles/engines Replaced/Re-powered	Total Lifetime Emissions Reductions <i>NO_x: 552.024 PM_{2.5}: 25.154 HC: 10.521 CO: 176.778</i>	\$883,422.50	\$1,166,622.50	\$2,050,045



June 6, 2016

Ms. Elaine Koutsoukos
Metropolitan Council
390 Robert Street North
St. Paul, MN 55101

Re: Letter of Interest for Metropolitan Council Regional Solicitation – Unique Projects (2017 Funding): Hopkins to Chaska LRT Corridor Slope Restoration

Dear Ms. Koutsoukos:

The Hennepin County Regional Railroad Authority (HCRRA) submits this letter of interest to the Metropolitan Council for the 2017 Funding Opportunities: Unique Projects category under the Regional Solicitation. The Slope Restoration project is to restore 150 linear feet of an embankment 80' high within the City of Chanhassen. Total anticipated construction cost is \$1,776,000. HCRRA is requesting a federal transportation grant of \$1,420,800, or 80 percent of the total cost of construction. The local project match will come from HCRRA, and may include other partners such as Carver County, Three Rivers Park District and the City of Chanhassen.

The proposed project qualifies as a Unique Project.

- There is a critical timing need for this project to be completed in 2017, which precludes submission of the project as part of the regular 2016 Federal Solicitation for projects to be completed in 2020 and 2021.
- The proposed project is in response to a federally-recognized disaster (Presidential Disaster 4182) that occurred in 2014. Most federal solicitation project proposals are part of a long-range capital improvement plan from the submitting agency and can be deferred if funding is not available. The proposed project is in direct response to a critical need created by a disaster. It has been delayed by inaction on the part of the Federal Emergency Management Agency (FEMA).
- The slope failure has severed the primary artery for non-motorized travel from the southwest sector of the region to the urban core. The Minnesota River Bluffs LRT Regional Trail utilizes the Hopkins-Chaska LRT Corridor and serves over 250,000 visits each year. The only possible detour adds another six miles to trip length, and requires use of bicycle and pedestrian travel on very narrow shoulders along a major county road.
- This is not a regular non-motorized modal project. It does not build new miles of trails, new bridges, or tunnels. It is simply needed to make a highly used arterial route functional again after a natural disaster.

The slope failure is in a ravine area where the trail used the rail corridor as a land bridge. Reconstruction of the slope is the lowest cost solution. To date, HCRRA has spent over \$320,000 in engineering and

plan design, and \$210,000 on an emergency repair to the culvert at the base of the slope that was compromised as a result of the slope failure.

Beyond being unique, hopefully this is a once in a lifetime project. FEMA has deferred and denied this project for too long, and HCRRA is now seeking alternative federal funding to resolve this issue in a timely fashion.

Thank you for your consideration.

Respectfully,



Kevin Dockry
Director, Hennepin County Community Works

Information Item

DATE: June 7, 2016
TO: TAC Funding and Programming Committee
PREPARED BY: Joe Barbeau, Senior Planner (651-602-1705)
SUBJECT: Draft Policy and Process to Exchange Federal funds on TAB-
Selected Projects

At last month's meeting, the Committee voted to reconvene the Federal Funds Exchange Work Group in light of TAB's concerns over the loss of disadvantaged business enterprise (DBE) goal-setting. Attempts to secure a meeting with an appropriate mix of attendees prior to this Committee meeting proved unsuccessful. Therefore, staff has spent time looking into options and trying to articulate the pros and cons of exchanging federal funds.

The attached background information is meant to:

1. Highlight the benefits of exchanging federal funds
2. Provide general information on the impact of the loss of federal environmental review requirements
3. Provide general information on the impact of the loss of DBE goal-setting requirements
4. Provide options on how to address DBE, if desired by TAB

Committee member input is sought, particularly for items 1 and 4 above. Also sought is direction on whether to make a second attempt at reconvening the Work Group or passing the information item to TAC, with hopes, once again, to move on an action item in the near future.

THE IMPACT OF FEDERAL FUNDS EXCHANGES

TAB programming of Surface Transportation Block Grant Program (STPBG) and Congestion Management and Air Quality (CMAQ) Program funds to regional applications provides regional influence over the spending of federal transportation funds. However, federal funds do carry several requirements. In some places, including Greater Minnesota, State DOTs and MPOs facilitate or allow the moving of federal funds from one project to a larger project able to absorb the funds, rendering the former without federal funds. This practice is not discouraged by USDOT.

BENEFITS TO SPONSORS OF PROJECTS THAT MOVE FEDERAL FUNDS

- Anecdotally, it has been suggested that a local sponsor can save 10 to 30 percent on a project through:
 - Reduced environmental documentation.
 - Avoidance of federal provisions, such as Buy America, the Davis-Bacon Act, and disadvantaged business enterprise (DBE) goal-setting requirements.
- Sponsors would have more flexibility in using local hiring preference and other programs that could conflict with the federal DBE requirement.
- Potentially more spending locally (though not TAB-enforceable).
 - Anoka County complied its DBE participation (not including its TIGER-funded Armstrong project) for a two-year period and found that 8% of the DBEs used were located in Anoka County and 32% were located in the 7-County Metro Area. Of the \$2.9 million in DBE subcontracts that were performed over two years, \$2.0 million went to companies outside of the region.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

Federal undertakings are subject to DBE requirements. FHWA, working with MnDOT Metro State Aid, establishes a DBE goal for the entire project. The goal is based on availability of DBE firms to provide materials, services, etc. Note that for any project under \$1 million, the policy is for race- and gender-neutrality.

DBE Requirements for Projects without Federal Funds

A project's DBE goal is based on total project cost, not federal funds or the federal portion. When federal funds are removed from a project, DBE requirements are no longer applicable.

Statewide DBE Goal

MnDOT sets a statewide annual DBE goal, for which each federal project is a contributor. While removing federal funds from a project does remove the DBE requirement for it, the statewide goal remains unchanged and is reflected through increased weighting of other projects throughout the state. Note, however, that the annual statewide goal is typically not met.

Local Initiatives

In the absence of a federal DBE target, some sponsors have local hiring programs while others do not. The below summary was generated from responses to Metropolitan Council staff's request for information:

- Small Business Enterprise (SBE) program:

- Hennepin County: The County’s policy includes project-specific goals of up to 25% participation from companies certified as Small Business Enterprises (SBEs). The County is “gender and race-neutral” but does make outreach efforts to DBEs. For non-federal projects, the County uses a Workforce Entry Program (WEP), for which contractors are asked to make an effort to hire graduates of local training programs (e.g., Summit Academy) for up to 5% of the work.
- City of Minneapolis: Small and Underutilized Business Enterprise Program. This program includes a goal-setting process for hiring minority- and women-owned business that is similar to the federal goal but focused on an 11-County area.
- Respondents reporting that they are tied to the low bid: Scott County and Three Rivers Park District.
- Respondents with no hiring program were Dakota County, Washington County, Blaine, Bloomington, Burnsville, Chanhassen, and Maplewood. Maplewood has a prevailing wage ordinance.
- Have not heard from the following Counties: Ramsey, Carver, and Anoka

BUY AMERICA ACT

For stand-alone projects, the Buy America Act no longer applies once the undertaking is not federal. Project sponsors should note that the required contract provisions must be applied to all phases of a project covered by a NEPA document to retain federal funds eligibility for any phase of a project covered by a NEPA document that has yet to be constructed. If a project is being built in phases and an early phase does not follow federal requirements after the NEPA document is completed, subsequent phases are not likely eligible to receive federal funds. Depending on the federal requirement, there are some gray areas. The most black-and-white instance is with Buy America, which, if not followed, renders future phases ineligible to receive federal funds. Other requirements are case-by-case.

ENVIRONMENTAL REVIEW

Directly, some federal requirements can be removed from a project that has given up its federal transportation funds. In some cases, a federal nexus can exist for other reasons (e.g., adjacent to federally funded park land, Interstate Access Request, USACE Section 404 permit) that maintain some requirements. Further, state requirements sometimes come into play. The below addresses the federal laws most often encountered in project decision-making in the Twin Cities Metropolitan area. It is not an exhaustive list of federal environmental laws.

General Environmental Documentation

- Federal undertakings always require A National Environmental Policy Act (NEPA) document.
- Non-federal undertakings can require an environmental document if certain Minnesota Environmental Policy Act (MEPA) thresholds are met. An Environmental Assessment Worksheet (EAW) is an example of a type of MEPA document. These thresholds are:
 - Construction of a road on a new location over one mile in length that will function as a collector.
 - Construction of additional travel lanes on an existing road for at least a mile.
 - Addition of interchanges to a completed limited access highway.

- Compared to a State EAW, a Federal Environmental Assessment (EA) has a significantly longer completion period and requires more detailed analysis for several items, such as purpose & need, alternatives analysis, and highway noise.
- Items that must be addressed in a federal EA but not in a state EAW include:
 - Environmental justice
 - Social impacts
 - Considerations related to pedestrians and bicycles
 - Economics
 - Relocation
 - Right-of-way
 - Air quality

Public Involvement

Whether a federal undertaking requires public involvement is case-by-case. If a federal EA or EIS is needed, public involvement activities are required. In other cases, some elements of the NEPA process for a federal undertaking may still require public involvement processes (e.g. Section 4f, Section 106). Some agencies have requirements that are more stringent than federal requirements.

Cultural Resources

For FHWA undertakings, FHWA determines whether there is an impact.

- Section 106 applies to any property that is eligible for or listed on the National Register of Historic Places (NRHP). Section 106 of the National Historic Preservation Act applies only when there is a federal undertaking (i.e., can be non-transportation federal money).
- The Minnesota Historic Sites Act applies only to properties already listed on the NRHP. It is generally less onerous than Section 106.

Threatened / Endangered Species

- Federal undertakings are subject to Section 7 of the Endangered Species Act (ESA).
- Non-federal undertakings are subject to Minnesota's Endangered Species Statute and Section 9 of the ESA. This means that the sponsor would still be legally liable for any take of protected species.

Noise

Minnesota's noise laws, while less likely to apply to a project than federal noise laws, are, once applied, more stringent. Some agencies go beyond state or federal thresholds for mitigating noise.

Section 4(f) and 6(f)

- Section 6(f) refers to the federal Land & Water Conservation Fund Act (LAWCON). Any facility funded by the LAWCON is required to be retained and operated solely for outdoor recreation in perpetuity. Any use of Section 6(f) parkland for non-recreation use requires approval by the National Park Service (NPS), which requires review under Section 106 of the National Historic Preservation Act and NEPA. While TAB can

remove FHWA funds, it cannot completely “defederalize” a project to which Section 6(f) applies, as this review is always required.

- Section 4(f) refers to the U.S. Department of Transportation Act of 1966. It requires that any undertaking with USDOT funds include a review for impacts to Section 4(f) resources. Historical properties are under this umbrella. If a project is no longer a USDOT undertaking, the state process through the Minnesota Historic Preservation Office (MnHPO) and MEPA are followed, though they are less onerous than their federal counterparts. The process with MnHPO does not require proactive investigation of resources that are not already listed on the NRHP. The federal process would require a survey to determine whether there are any properties eligible for or listed on the NRHP, while the state process would not require a survey until and unless an artifact is found. MEPA is similar to NEPA but with different requirements, rendering it less onerous.

Environmental Justice

Environmental Justice (EJ) is a part of any FHWA NEPA document and is therefore considered in all federal undertakings. An equity analysis is conducted to better-define the nearby minority and low-income populations. If potential EJ populations are identified, a field inspection is conducted to determine a) whether the data constitute a true EJ population and b) how those populations are impacted in terms of community cohesion, access, and noise. Impact mitigation may be required.

Projects that are not federal undertakings are not subject to an EJ review.

Other Reviews and Impacts

- *Farmland Policy Projection Act* is not applicable once a project is no longer a federal undertaking.
- *Air quality* analyses (MSAT) are not applicable once federal funds are removed.
- *Wetland impacts* may or may not be impacted upon removal of federal funds. Both FHWA and United States Army Corps of Engineers (USACE) have requirements. The latter’s could apply even if federal transportation funds are removed. Minnesota State law also has the Wetland Conservation Act (<http://www.bwsr.state.mn.us/wetlands/wca/>).
- *Right-of-way relocation impacts*. Any federal undertaking has rules on property purchase and reimbursement via the Uniform Act.
- *Tribal lands*. FHWA nexus involves procedures on reservations and exterior trust lands, which are less likely to apply to a non-federal undertaking.
- *Flood plains, national wild & scenic rivers, Migratory Bird Treaty Act (MBTA), and economic impacts (such as access and business relocation)* could have reduced review scrutiny.
- *Bald and Golden Eagle Protection Act of 1940, as amended*. This still applies even when a project is not a federal undertaking.

POTENTIAL SOLUTIONS TO THE LOSS OF DBE-GOAL-SETTING

TAB has expressed concern with the loss of DBE goal-setting that would be brought about by removing federal funds from some project. Members have asked whether the DBE goal-setting process can remain but MnDOT has reported that this is not an option for a project not going through the rest of the federal processes.

1. Use the Metropolitan Council's Office of Equal Opportunity (OEO) to set and Enforce Goals

OEO is capable of setting DBE goals similarly to MnDOT's process. OEO Could use:

- a) Its MCUB program: This program only includes Minnesota DBEs. It also includes certified [Targeted Business Program](#) (TGB) firms, and veteran-owned Minnesota firms.
- b) The DBE program: this is essentially the same program as MnDOT administers for federal projects. Out-of-state DBEs are included in the pool of potential contractors.

NOTE: Currently, OEO is unsure of whether it is able to enforce its goals on a non-Council project. State statute does not provide the right to enforce goals on such projects. OEO is working with Council legal staff to make a determination.

OEO would not charge applicants for this service.

2. Use OEO to Play an Advisory Role

In that role, OEO would continue to set goals but it would not enforce them or "fail" an applicant. While this is essentially an "encouragement" to try to meet goals, OEO would be able to provide a report to TAB on whether the applicant made a good faith effort.

3. Allow Project Sponsors to use Local Hiring Programs while one of the Above Options is used

TAB would have to determine what constitutes an adequate program.

4. Approve the Policy with no Inclusion of DBE Goals

POLICY AND PROCESS TO EXCHANGE FEDERAL FUNDS BETWEEN TAB-SELECTED PROJECTS

OVERVIEW

Projects selected through the TAB Regional Solicitation and HSIP processes are awarded federal funds and are therefore subject to federal requirements that can cost an agency considerable time and money. When conditions are right, an agency may approach TAB to request a federal funds exchange. This entails transferring federal obligation authority from one project to another project that already has federal obligation authority, allowing the former project to proceed without adherence to some federal requirements.

POLICY

Project Sponsors:

- Project sponsors must voluntarily agree to participate in the funds exchange, be it on their own or another sponsor.
- One sponsor may facilitate an exchange of by shifting federal funds from one or more of its projects to one or more of its other projects.
- One sponsor may trade federal funds from one or more of its projects by working with other sponsor(s) to absorb federal funds, in exchange for local funding.
- TAB will not recognize agreements for “future consideration” (i.e., TAB will not enforce an agreement for one sponsor to “return the favor” to another sponsor at a future time).
- All sponsors involved with a federal funds exchange request must provide a resolution agreeing to be responsible for the projects, the projects’ timing, and the risks.

Funding:

- All federally funded projects must maintain the federally required minimum local match (usually 20%, but 10% for Highway Safety Improvement Program).
- All funds transfers shall be one-to-one in terms of funding amount.
- All transferred funds must be eligible to be used on the project they are proposed to fund.
- If federal funds are transferred to a project with an earlier program year, the sponsor must advance construct (AC) the project and be reimbursed in the year to which the funds are assigned in the TIP. A TIP amendment is required to reflect the use of AC.
- Federal funds cannot be transferred to a future year, as this would put a burden on TAB to redistribute funds.
- If State Aid funds are to be exchanged for federal aid funds, transfers can only occur county-to-county or city-to-city.

Projects with Federal Funding Removed:

- All TAB-selected projects must be completed with all elements, and in the time frame, shown in the original application for funding, notwithstanding a deviation approved by the TAB Scope Change Consultation and Evaluation processes. This process accounts for changes (which are products of the applicable environmental process) to the scope of project elements as portrayed in the original application for funding. MnDOT Metro District State Aid or Metropolitan Council Transit Grants, depending on the project, will continue to monitor all TAB-selected projects to assure that they are completed consistent with the application and with policy.

- All TAB-selected projects, even if federal funds have been removed, are subject to TAB's Scope Change Consultation and Evaluation processes. Project sponsors must consult with MnDOT Metro District State Aid or Metropolitan Council Transit Grants, depending on the project, in order to seek permission to deviate from the approved scope.
- All TAB-selected projects, even if federal funds have been removed, are subject to TAB's Program Year Policy.
- Should a TAB-selected project be withdrawn or otherwise unable to be completed, the project sponsor must return its federal funding for regional redistribution. The sponsor's resolution must state that the full funding amount will be provided to the region.

PROCESS

1. Applicant submits a federal funding exchange request. While it is encouraged, and to the sponsor's advantage to submit a request as early as possible, the deadline for requests is December 31 of the state fiscal year prior to the program year associated with the earliest-programmed project involved in the transfer. For example, an exchange involving a project programmed in fiscal year 2019 must be requested by December 31, 2017.
2. Applicant provides a proposal to Metropolitan Council and MnDOT Metro State Aid. The proposal must include the following:
 - Description and funding table showing projects giving up and absorbing the federal funds. Amount and source of funds must be shown as well.
 - Resolution from the governing board of any agencies involved with the exchange. The resolution must include:
 - Identification of any projects proposed to be involved in the exchange. Funding amounts must be included
 - Source(s) of non-federal funds.
 - Commitment to authorizing all TAB-selected projects in the program year identified in the TIP.
 - Acknowledgement that all TAB-selected projects will comply with all MnDOT State Aid or Metropolitan Council Transit Grants project requirements.
 - Acknowledgement that all TAB-selected projects will be completed with the scope and timing proposed in the original application and that MnDOT State Aid and/or Metropolitan Council Transit Grants will monitor the project to assure that this happens.
 - Acknowledgement that all TAB-selected projects are subject to TAB's scope change policy.
 - Guarantee that should they fail to deliver part or all of the TAB-funded projects, federal funding will be turned back to the region for distribution to other regional projects.
 - Acknowledgment of any project advancement and advanced construction that needs to occur.
 - Guarantee that the project will be delivered using the local State Aid process or Metropolitan Council Transit Grants process.