

Action Transmittal

Transportation Advisory Board



Committee Meeting Date: May 18, 2023

Date: May 5, 2023

Action Transmittal: 2022-30

Program Year Shift Request: Highway 252 Projects

To: TAC Funding and Programming Committee

Prepared By: Steve Peterson, Senior Manager of Highway Planning and TAB/TAC Process
(Steven.Peterson@metc.state.mn.us)

Requested Action

The City of Brooklyn Center, City of Brooklyn Park, Hennepin County, and MnDOT jointly request a program year (PY) shift for four projects to move Regional Solicitation grant funding from 2026 to 2029.

Recommended Motion

That the TAC Funding and Programming committee recommend (approval/disapproval) of the request to move the following four Highway 252 related Regional Solicitation grants from 2026 to 2029 with the technical comments described below.

- Brooklyn Center's MN Highway 252 at 66th Avenue grade separation (109-010-007 and 109-010-007F).
- Brooklyn Center's MN Highway 252 at 70th Avenue pedestrian improvements (109-090-002).
- Brooklyn Park's MN Highway 252 at Brookdale Drive grade separation (110-010-010).
- Hennepin County's MN Highway 252 at 85th Avenue grade separation (027-709-029).

Background and Purpose

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). The project partners would like to move four awarded Regional Solicitation projects from 2026 to 2029 to align with construction of the larger MnDOT-led Highway 252/I-94 project.

Over the course of three Regional Solicitation cycles, three different agencies have applied for and been awarded Regional Solicitation for four separate projects in the Highway 252 corridor (see Table 1). 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 part of the environmental process.

This consolidation of projects was 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 the fall of 2019, due to emerging environmental issues, MnDOT, in coordination with FHWA, changed the project environmental assessment to an environmental impact statement, which are only used on a few select projects (e.g., Rethinking I-94, Mall of America construction, and other projects that may have major environmental impacts). This change was to ensure a more extensive review of environmental, health and equity impacts as well as the inclusion of transit in the environmental analysis. At the time, the change to an EIS delayed the larger Highway 252/I-94 project to 2026. Three of the Regional Solicitation projects were granted an extension in 2021 to align with the larger construction project.

The Environmental Impact Statement process has further delayed the project to 2029 due to the Scoping Decision Document development, data analysis, review and coordination with partner agencies and additional engagement. For instance, three Equity and Health Assessment Reports (EHA) have been produced as part of the environmental document. The assessment involved residents from historically underserved and overburdened populations, through targeted public engagement to elevate equity and health information in the evaluation and development of Hwy 252/I-94 project alternatives. The Hwy 252/I-94 EHA enhances MnDOT’s use of equity and health information during the environmental review.

To coordinate the four Regional Solicitation projects with the larger Highway 252/I-94 project an exception to the Program Year Policy would be necessary.

Table 1: Regional Solicitation Awards for the Highway 252 Corridor

Funding Cycle	Applicant	Project	Award Amount	Original PY	Current PY	Requested PY
2016	Brooklyn Center	TH 252/66 th Ave intersection improvements	\$7,000,000	2023	2026	2029
2016	Brooklyn Center	TH 252/70 th Ave pedestrian overpass	\$1,902,640	2023	2026	2029
2018	Hennepin County	TH 252/85 th Ave intersection improvements	\$7,000,000	2023	2026	2029
2020	Brooklyn Park	TH 252/Brookdale Dr intersection improvements	\$10,000,000	2025	2026	2029

Relationship to Regional Policy

The Transportation Advisory Board (TAB) manages the annual program of projects programmed by the Regional Solicitation. The request does not follow TAB’s Program Year Policy which states that a project can request one program year extension one time. Due to extenuating circumstances the applicants are requesting an exception to the policy to align all coordinated projects into the same year.

Staff Analysis

While the program year policy only allows for a one-year, one-time program year extension, this is a unique circumstance. MnDOT is constructing the project and the local applicants are bound to MnDOT’s timelines and the federally required environmental process. The more in-depth environmental process will allow for greater levels of public involvement and project input, including Equity and Health Assessment Reports, 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 programing perspective, the shift of funds can be managed given the high amount of



overprogramming in 2026.

Table 2 provides a starting point of pros and cons for the committees to consider.

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, especially the Equity and Health Assessment Reports.	There is time for local agencies to reapply next funding cycle for at least some of the funding again (rules may restrict funding all three adjacent interchanges in the same cycle).
Pulling the funding may result in one or more of the projects not being included in the larger project or other project elements not being included in order to stay within the budget.	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 additional local match for the larger project.	The approach is not consistent with how TAB deals with other program year extension requests, although several exceptions have been made in recent years.
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.	
Would enable successful completion of one of the largest highway projects planned in the region in the next decade.	
Limited financial impact to the overall Regional Solicitation program.	
Combining projects is better for the traveling public due to minimization of construction impacts.	

Committee Comments and Actions

This issue was brought to the TAB Executive Committee on April 19, 2023, given the complexity of the issue relative to current TAB Policy. The Policy was written with stand-alone projects in mind, whereas how to treat a project that connects to a larger project is not adequately addressed. This circumstance is happening more often and is likely to continue. Other examples of past Regional Solicitation projects tied to larger projects include smaller projects tied to the Green Line Extension, Gold Line, and various Arterial Bus Rapid Transit projects, signify a need to reexamine the TAB policy.



Routing

To	Action Requested	Date Scheduled/ Completed
TAC Funding & Programming Committee	Review & Recommend	<i>May 18, 2023</i>
Technical Advisory Committee	Review & Recommend	<i>June 7, 2023</i>
Transportation Advisory Board	Review & Adopt	<i>June 21, 2023</i>



HENNEPIN COUNTY

MINNESOTA

April 13, 2023

James Hovland
Chair, TAB Executive Committee
Metropolitan Council
390 Robert Street North
St. Paul, MN 55101-1805

RE: Program Year Change Request for:

SP 109-010-007/109-010-007F – Brooklyn Center: MN Hwy 252 at 66th Avenue Grade Separation
SP 109-090-002 – Brooklyn Center: 70th Avenue Pedestrian Improvements
SP 027-709-029 – Hennepin County: MN Hwy 252 at 85th Avenue Grade Separation
SP 110-010-010 – Brooklyn Park: Brookdale Drive Grade Separation

Mr. Hovland,

The Cities of Brooklyn Center and Brooklyn Park, Hennepin County and MnDOT respectfully request support from the TAB Executive Committee for a program year change to the year 2029 for the above referenced projects located along Highway 252, that were previously awarded federal funds through various cycles of the Regional Solicitation.

Following is a brief history of these projects:

- Brooklyn Center was awarded funding for their two projects in program year 2021 as part of the 2016 Regional Solicitation.
- Brooklyn Center, Brooklyn Park, MnDOT and Hennepin County jointly began a Highway 252 freeway conversion study.
- FHWA suggested initiation of an Environmental Assessment (EA) for Highway 252.
- During the EA analysis it was determined that it would be beneficial to include I-94 from Dowling Avenue to Highway 252.
- Hennepin County was awarded funding for the 85th Avenue project in program year 2023 as part of the 2018 Regional Solicitation.
- MnDOT was awarded Corridors of Commerce (COC) funding for the Met Council submitted scope for the Highway 252/I-94 mobility project in program year 2023.
- Brooklyn Center was granted a program year extension for their projects to align with the COC project.

Hennepin County Public Works
1600 Prairie Drive | Medina, MN 55340
612-596-0356 | hennepin.us

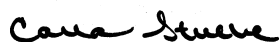


- Brooklyn Park was awarded funding for the Brookdale Drive project in program year 2025 as part of the 2020 Regional Solicitation.
- The environmental assessment pivoted from the EA to an Environmental Impact Statement (EIS) to ensure a more extensive review of environmental, health and equity impacts as well as the inclusion of transit in the environmental analysis.
- Due to the EIS change it was determined that the COC project would not likely be delivered until 2026.
- An extension was granted for all of the referenced projects to program year 2026.

Hennepin County understands that Metropolitan Council's policy is to only grant one program year extension. However, due to the complex, intertwined nature of these projects, their regional significance, sensitivity in completing an extensive environmental review and the benefits of tying the projects together, the project team is requesting an exception to the program year policy. Some of the reasons these projects have pushed back from 2026 to 2029 is due to the Scoping Decision Document development, data analysis, review and coordination with partner agencies and additional engagement, including those underrepresented and overburdened by the project.

We recognize this is outside the typical process for a program year extension. However, while this regionally significant corridor has progressed from a study to an Environmental Assessment (EA) and finally to an Environmental Impact Statement (EIS), all partners have continued to support the project. Additionally, Met Council submitted the project for Corridors of Commerce funding, signifying the importance of the project. Based on this, the cities of Brooklyn Center and Brooklyn Park, Hennepin County and MnDOT request support to change all of the projects identified to program year 2029. Please contact us if additional information is needed.

Sincerely,



Carla Stueve, P.E.
Hennepin County Engineer



Elizabeth Heyman
Brooklyn Center Public Works Director



Jesse Struve, P.E.
Brooklyn Park City Engineer

Mark Lindeberg, P.E.
MnDOT West Area Manager

The Regional Program Year Policy is intended to manage the development and timely delivery of transportation projects awarded federal funds through the TAB's Regional Solicitation Process.

Project sponsors awarded federal funds through the regional solicitation process are expected to get their project ready for authorization in their program year.

The program year is July 1 to June 30 of the year in which the project is originally programmed in the Transportation Improvement Program (TIP).

By April 1 of the program year, the project must meet the criteria on the attached sheet.

Additionally, if a regionally selected project is not ready to request authorization by June 15 of its program year, the project will not be carried over into the new TIP unless the project sponsor receives a program year extension from the TAB.

Project sponsors that have made significant progress but are delayed by circumstances that prevent them from delivering their projects on time must submit a request for a program year extension to the TAB Coordinator by December 31 of the project's program year.

The maximum length of a program year extension is one year. Projects are eligible for only one program year extension request.

If a program year extension is granted, funding the project will be contingent on the availability of federal funds. A project sponsor is responsible for funding the project until federal funding becomes available.

Projects receiving program year extensions will not receive an inflationary cost increase in their federal cost caps.

"Procedure to Request a Program Year Extension" is provided as Attachment 1.

Criteria for Meeting Program Year

Construction Projects through the FHWA Process:

- Environmental document approved – April 1
 - *Environmental Documentation draft submittal due December 1*
- Right of way certificate approved – April 1
 - *Condemnation proceedings formally initiated by February 28 with title and possession by June 1.*
- Final construction plans submitted and reviewed for standards, eligibility, funding and structural design – April 1
- Engineer's estimate – April 1
- Utility relocation certificate – April 1
- Permit applications submitted – April 1

Construction Projects through the FTA Process

- Environmental document completed; project plans complete and reflect the project that was selected
- Letting date can be set within 90 days
- FTA notification that grant approval imminent

Right of Way Only Projects through FHWA Process

- Environmental document approved – April 1
- OCPPM/SALT authorization to proceed – June 1

Right of Way Only Projects through FTA Process

- Environmental document completed
- Appraisals over \$250,000 approved by FTA; under \$250,000 reviewed by Right of Way Section
- FTA notifies that grant approval is imminent
- OCPPM transfers funds
- Offers made/condemnation initiated if offers refused

Program Project

- Grant application submitted to FTA; includes work plan
- Notification from FTA that grant approval is imminent
- Work will begin within 90 days after grant approval
- Agreement executed between MnDOT and proposer once funds are transferred

Procedure to Request A Program Year Extension

If it appears that a project cannot meet the deadline for authorization within its program year and a program year extension is necessary, the project sponsor must demonstrate to the Funding and Programming Committee that significant progress has been made on the project and the program year criteria can be met within the requested one-year time extension. Projects may be granted only one program year extension. Requests for a program year extension must be submitted by December 31 of the project's program year.

The answers provided on the Progress Schedule for Program Year Extension on Attachment 1 will determine whether a project is **eligible** for a one-year extension. In addition to responding to the Progress Schedule for Program Year Extension, the project sponsor must submit the following materials to the Funding and Programming Committee so it can determine if a program year extension is reasonable:

- 1) Project Background (will be provided by TAB Coordinator).
- 2) Project Progress:
 - a) Complete attached progress schedule with actual dates.
 - b) Right of way acquisition - provide map showing status of individual parcels.
 - c) Plans - Provide layout and discussion on percent of plan completion.
 - d) Permits - provide a list of permitting agencies, permits needed and status.
 - e) Approvals - provide a list of agencies with approval authority and approval status.
 - f) Identify funds and other resources spent to date on project.
- 3) Justification for Extension Request:
 - a) What is unique about this project that requires an extension of the program year?
 - b) What are the financial impacts if this project does not meet its current program year?
 - c) What are the implications if the project does not obtain the requested extension?
 - d) What actions will the agency take to resolve the problems facing the project in the next three to six months?

PROCESS AND ROLES

The Funding and Programming Committee will hear all requests for extensions. The Committee's recommendation will be forwarded to the TAC and TAB for action. The requests will be presented to the TAB for action on its consent agenda. Staff for the Funding and Programming Committee will notify the applicant of the committee's decision.

Regional Program Year Policy

TAB Adopted: April 17, 2013
Administrative Modifications: August 20, 2014

Attachment 1: Progress Schedule for Program Year Extension

Enter request date

INSTRUCTIONS:

1. Check status of project under each major heading.
2. Enter dates as requested for each major heading.
3. Enter points as suggested by each applicable response.
4. Total points received in the TOTAL POINTS line on the last page. **The minimum score to be eligible to request an extension is seven points.**

ENVIRONMENTAL DOCUMENTATION

PROJECT MEMORANDUM

____ Reviewed by State Aid If checked enter 4. _____

Date of approval _____

____ Completed/Approved If checked enter 5. _____

Date of approval _____

____ EA

____ Completed/Approved If checked enter 2. _____

Date of approval _____

EITHER

____ Not Complete

Anticipated Date of Completion _____
If prior to January 31 of the program year, enter 1. _____

OPPORTUNITY FOR PUBLIC HEARING (not necessary for project memorandum)

____ Completed

Date of Hearing _____ If checked enter 2. _____

____ Not Complete

Anticipated Date of Completion _____
If prior to February 28 of the program year, enter 1. _____

FINAL ENVIRONMENTAL ASSESSMENT (not required for project memorandum)

____ Completed/FONSI Approved If checked enter 2. _____

Date of approval _____

____ Not Complete

Anticipated Date of Completion _____
If prior to March 31 of the program year, enter 1. _____

STUDY REPORT (required for Environmental Assessment Only)

____ Complete/Approved If checked enter 1. _____

Date of Approval _____

____ Not Complete

Anticipated Date of Completion _____

Regional Program Year Policy

TAB Adopted: April 17, 2013

Administrative Modifications: August 20, 2014

CONSTRUCTION PLANS

_____ Completed (includes signature of District State Aid Engineer)
Date _____ If checked enter 3. _____
_____ Completed (approved by District State Aid as to SA Standards but not signed)
Date _____ If checked enter 2. _____
_____ Not Complete
Anticipated Date of Completion _____
If prior to June 30 of the program year, enter 1. _____

RIGHT OF WAY ACQUISITION

_____ Completed (includes approval of R/W Cert. #1 or #1A) If checked enter 2. _____
Date _____
_____ Not Complete
Anticipated Date of Completion _____
If prior to December 31 of the year following the original program year, enter 1. _____

ENGINEERS ESTIMATE OF COSTS

_____ Completed If checked enter 2. _____
Date _____
_____ Not Complete
Anticipated Date of Completion _____
If prior to December 31 of the year following the original program year, enter 1. _____

AUTHORIZED

Anticipated Letting Date _____.
Anticipated letting date must be prior to June 30
in the year following the original program year,
so that authorization can be completed prior to
June 30 of the extended program year.

TOTAL POINTS _____