

ACTION TRANSMITTAL 2013-50

DATE: November 14, 2013

TO: TAC Planning Committee

PREPARED BY: Connie Kozlak

SUBJECT: Memo Of Understanding (MOU) to Conduct Federally-Required Metropolitan Transportation Planning Activities in Wright and Sherburne Counties

REQUESTED ACTION: Request that the TAC Planning Committee recommend to the Technical Advisory Committee of the TAB that the Metropolitan Council approve the attached draft MOU for signature by the Regional Administrator.

RECOMMENDED MOTION: That the Technical Advisory Committee of the Transportation Advisory Board recommend approval of the attached draft MOU and forward it to the Transportation Advisory Board and Metropolitan Council for approval. (See Attachments)

BACKGROUND AND PURPOSE OF ACTION: After each census the U.S. Census Bureau delineates the contiguous urbanized portion of metropolitan areas. These "UZA" boundaries resulting from the 2010 Census were released in 2012, and for the first time the Twin Cities UZA boundary extended beyond the seven county region into Wright and Sherburne Counties and portions of St Croix, WI. Since federal law requires an MPO to cover at least the complete UZA it is necessary to extend the MPO boundary, and to establish an agreement on how to cooperatively conduct transportation planning and programming for this area. An agreement with St Croix county will also be prepared.

A workgroup consisting of staff and elected officials from each local jurisdiction within the extended area, along with representatives from Minnesota Department of Transportation (MnDOT), Federal Highway Administration (FHWA), and the Metropolitan Council met five times between July 25, 2012 and October 1, 2013, to discuss ideas for addressing the Federally-Required Metropolitan Transportation Planning Activities in the portions of Wright and Sherburne Counties now in the UZA, culminating with the development of the enclosed Memorandum of Understanding (MOU). This MOU is modeled after similar agreements prepared for other metropolitan areas to establish a communication and coordination framework for addressing the Metropolitan Council's MPO transportation planning and programming responsibilities in the extended area. The MOU builds upon the existing practices and procedures of the existing Region 7W Transportation Policy Board, a joint powers board in Wright and Sherburne counties, to fulfill federal law and requirements while remaining consistent with existing state statute which defines the roles and membership of Metropolitan Council and its Transportation Advisory Board.

ROUTING

TO	ACTION REQUESTED	DATE COMPLETED
TAC Planning	Review & Recommend	
Technical Advisory Committee	Review & Recommend	
TAB Policy or Programming Committee	Review & Recommend	
Transportation Advisory Board	Review & Recommend	
Metropolitan Council Transportation Committee	Review & Recommend	
Metropolitan Council	Review and approve	

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE METROPOLITAN COUNCIL, REGION 7W TRANSPORTATION POLICY BOARD,
WRIGHT AND SHERBURNE COUNTIES, THE CITIES OF ALBERTVILLE, ELK RIVER,
HANOVER, OTSEGO, and ST. MICHAEL
TO
CONDUCT FEDERALLY-REQUIRED METROPOLITAN PLANNING ACTIVITIES**

The parties to this Memorandum of Understanding (MOU) are the Metropolitan Council of the Twin Cities (Council), the Region 7W Transportation Policy Board (Region 7W TPB), Wright and Sherburne Counties (Counties), the cities of Albertville, Elk River, Hanover, Otsego, and St. Michael;

WHEREAS, federal transportation law and regulations (23 USC 134 and 135; 49 USC 5303 and 5304; 23 CFR 450 Subpart A – *Transportation Planning and Programming Definitions*; and 23 CFR 450 Subpart C – *Metropolitan Transportation Planning and Programming*) require a metropolitan planning organization (MPO) to be designated for all urbanized areas with a population of more than 50,000 to establish and maintain a continuing, coordinated, and comprehensive transportation planning process;

WHEREAS, the Council was established by the Minnesota Legislature in 1967 to plan for the orderly and economic development of the seven county Minneapolis-St. Paul region and was designated by the governor as the MPO for the Minneapolis-St. Paul Urbanized Area in 1973;

WHEREAS, on March 27, 2012, the U.S. Census Bureau identified portions of Albertville, Hanover, Otsego, and St. Michael in Wright County and portions of Elk River and Big Lake Township in Sherburne County, hereinafter referred to as “the extended area,” as part of the Minneapolis-St. Paul Urbanized Area, which is the first time the Minneapolis-St. Paul Urbanized Area has extended beyond the Council’s seven county jurisdictional area;

WHEREAS, under federal regulations, the MPO transportation planning area boundary must encompass, at a minimum, the entire “Urbanized Area” or UZA as defined by the U.S. Census Bureau and the area expected to become urbanized within the next 20 years;

WHEREAS, federal law does not require a re-designation of an MPO solely due to expansion of its boundary;

WHEREAS, US DOT policy encourages boundary changes be accomplished through agreements between affected jurisdictions;

WHEREAS, MN Statute 473.146, subd. 4 says “(a) The Metropolitan Council is the designated planning agency for any long-range comprehensive transportation planning required by section 134 of the Federal Highway Act of 1962, Section 4 of Urban Mass Transportation Act of 1964 and Section 112 of Federal Aid Highway Act of 1973 and other federal transportation laws. The Council shall assure

administration and coordination of transportation planning with appropriate state, regional and other agencies, counties, and municipalities;”

WHEREAS, Wright and Sherburne Counties are part of the Central Minnesota Area Transportation Partnership (ATP) for federal transportation funding;

WHEREAS, Wright and Sherburne Counties are part of the Region 7W TPB established by Joint Powers Agreement duly executed by Benton, Sherburne, Stearns, and Wright Counties on January 4, 2000;

WHEREAS, the Region 7W TPB’s Statement of Purpose, as defined in the Joint Powers Agreement, is “to address regionally-significant transportation issues, conduct regional transportation studies and plans, and solicit and select projects seeking federal transportation funding that support the activities of MnDOT and the Central Minnesota ATP”;

WHEREAS, Section 176(c) of the CAA, 42 U.S.C. § 7506(c), requires federally-funded transportation plans, programs, and projects that are funded or approved under 23 U.S.C. (Highways), or the Federal Transit Act, 49 U.S.C. ch. 53 (Public Transportation) to conform with State and Federal air quality implementation plans; and

NOW, THEREFORE, the parties recognize and agree:

1. **AGREEMENT PURPOSE.** As part of its charge from the state legislature to “assure administration and coordination of transportation planning with appropriate state, regional and other agencies, counties, and municipalities” the Council desires to enter into an agreement with the above named counties and cities in the “extended area” to meet the metropolitan transportation planning requirements as required by federal law;
2. **APPLICABILITY.** This agreement only applies to federal metropolitan transportation planning requirements; it does not extend any of the Council’s other statutory roles and responsibilities, such as provision of wastewater treatment or transit service, nor the requirement for local land planning in conformance to the Metropolitan Development Guide, to be applicable to these parties;
3. **PLANNING AREA BOUNDARIES.** The metropolitan planning area boundary selected by the “extended area” parties in accordance with federal law will be accepted by the Council as metropolitan transportation planning area for the affected areas of Wright and Sherburne Counties;
4. **TRANSPORTATION PLANNING.** The parties will conduct a transportation planning process that is continuing, cooperative, and comprehensive and provide for the consideration of projects, strategies, and services that address the requirements in 23 CFR 450 Subpart C – *Metropolitan Transportation Planning and Programming*. A primary responsibility of the MPO is to prepare an updated long range transportation plan every four years. Under federal law, this plan must be “fiscally constrained” so it does not plan for expenditures beyond those revenues expected to be reasonably available within the time frame of the plan. The Council will coordinate with the Region 7W TPB, as representatives of the extended area, to discuss and agree upon projects

in the extended area that are to be included in the MPO's fiscally constrained plan, and will also discuss and agree upon any "illustrative projects" in the extended area that could be reflected in the plan as projects that could be built if additional resources are secured within the plan timeframe. The Council will coordinate with the Region 7W TPB if plan amendments that impact the extended area are needed prior to the usual four year plan update cycle;

5. **TRANSPORTATION PROGRAMMING.** A primary responsibility of the MPO is to prepare a short range Transportation Improvement Program to cover a four year period. The Council and its Transportation Advisory Board (TAB) will work cooperatively with the extended area participants, and the Region 7W TPB, the Central Minnesota ATP, and MnDOT District 3 to develop the Transportation Improvement Program for the Twin Cities Metropolitan Area, adopt it and transmit it to MnDOT for incorporation into the State Transportation Improvement Program (STIP) by October 1 of each year. The TAB will continue to select projects for the seven- county area through its regional solicitation process. Projects to be funded with federal money in the extended area will be selected through the existing District 3/7W ATP process, and transmitted to the Council for inclusion in the MPO's TIP. If a TIP amendment that impacts the extended area is needed prior to the usual annual TIP update cycle, MnDOT District 3 and the Region 7W TPB will submit the amendment to the Metropolitan Council for inclusion in the MPO's TIP and subsequently the STIP;
6. **METROPOLITAN PLANNING FUNDING.** The parties agree that the Council will utilize PL and Section 5303 funds from the US DOT to carry out this planning work and will not request additional funding from the other parties;
7. **AIR QUALITY CONFORMITY.** The MPO must assure that its transportation plan and TIP are in conformity with the federal Clean Air Act. This will continue to be accomplished under the process described in the "Transportation Conformity Procedures for Minnesota." Portions of Wright County, as well as portions of the original seven county MPO area, have been included in the air quality maintenance area for the region since the maintenance area was designated by US EPA in 1999;
8. **COMMUNICATION.** Provision of a forum for interaction among local jurisdictions, between local jurisdictions and state agencies, and between state/local agencies and the public is a key responsibility of MPOs. In order to maintain open communication on transportation planning issues, the Council will coordinate at least one meeting each year between the chair of the Council or the chair of the Council's transportation committee, the chair of the Council's Transportation Advisory Board, and local elected officials of the affected communities in the extended area. At a staff level, each of the two counties (Sherburne and Wright) will be invited to send a representative to the MPO's Technical Advisory Committee (TAC). The TAC reviews and recommends for approval the long-range transportation plan, the TIP, UPWP and other studies and plans undertaken by the Council;

9. **PUBLIC PARTICIPATION.** Public participation in the preparation of all transportation planning documents, including the long range plan and the TIP, will be facilitated by provision of public meeting and/or public hearing locations convenient to residents of the extended area and dissemination of information through local channels in Sherburne and Wright Counties, such as libraries and community media. Material will also be electronically available on the Council’s website;
10. **LEGAL AUTHORITY.** This MOU is not a legally binding agreement and creates no legally binding obligations for any party. Because of the mutual desire to proceed and achieve the goals stated in this MOU, each party fully intends to make a good faith effort to achieve the goals described above to work together to comply with the federal and state laws;
11. **GOVERNMENT DATA.** The parties acknowledge that this MOU, as well as any data created, collected, stored, or received under the terms of this MOU, are “Government Data” within the meaning of the Minnesota Government Data Practices Act (Minnesota Statutes Chapter 13), and that they must comply with the provisions of the Act as if related to such data;
12. **EFFECTIVE DATE.** This MOU shall be effective when all appropriate signatures have been obtained by the Council, the Region 7W TPB, Wright and Sherburne Counties, and the cities of Albertville, Elk River, Hanover, Otsego, and St. Michael;
13. **MODIFICATION.** Any amendments to this MOU must be mutually agreed to in writing. All parties agree to review the MOU (and amend as necessary) following the release of urban areas boundaries by the U.S. Census Bureau based on the 2020 U.S. Census;
14. **TERMINATION.** The terms of this MOU may be terminated by any one of the parties by giving 90 days written notice to each of the other parties. This MOU will remain in effect until terminated as provided in this clause, or until replaced by a new MOU.

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I concur with this Memorandum of Understanding

Sherburne County

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Date: _____

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I concur with this Memorandum of Understanding

Wright County

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I concur with this Memorandum of Understanding

City of Albertville

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I concur with this Memorandum of Understanding

City of Elk River

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City of Hanover

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City of Otsego

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City of St. Michael

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I concur with this Memorandum of Understanding

Region 7W Transportation Policy Board

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I concur with this Memorandum of Understanding

Metropolitan Council

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