



Victoria F. Sheehan
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

FIS 16 177



William Cass, P.E.
Assistant Commissioner

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October 25, 2016
Project Development Division

The Honorable Neal M. Kurk, Chairman
Fiscal Committee of the General Court
State House
Concord, New Hampshire 03301

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

[Signature]
Approved by Fiscal Committee
Date 10/25/16

REQUESTED ACTION

Pursuant to RSA 14:30-a, VI, authorize the New Hampshire Department of Transportation to accept and expend revenue in the amount of \$6,000,000 from the Federal Highway Administration (FHWA) to cover required reimbursement of right of way costs, effective upon the date of Fiscal Committee and Governor and Council approval through June 30, 2017. 100% Federal Funds.

04-096-096-963015-3049 Non-Participating Construction / Reconstruction	Current Budget FY2017	Requested Change FY2017	Revised Budget FY2017
Expenses:			
046 500463 Consultants	\$3,055,054	\$0	\$3,055,054
400 500870 Construction-Repairs & Materials	1,915,274	0	1,915,274
401 500876 Land Interest	1,920,932	6,000,000	7,920,932
Total	\$6,891,260	\$6,000,000	\$12,891,260

<u>Source of Funds</u>			
Revenue:			
000 409151 Federal Funds	\$560,573	\$6,000,000	\$6,560,573
000 000015 Highway Funds	6,330,687	0	6,330,687
Total	\$6,891,260	\$6,000,000	\$12,891,260

EXPLANATION

The Department bills the Federal Government, primarily FHWA for expenditures on work performed by the Department on participating Federal projects. Due to an increased priority of closing Federal projects the Department has identified additional revenue. The Department proposes to use the revenue to fund required reimbursements to FHWA for right of way costs. The reimbursement to FHWA will result in additional funding for construction projects.

The Department of Transportation (DOT) identified a potential contingency related to regulations in the US Code for FHWA funded projects that would require potential reimbursement of federally funded preliminary engineering and right-of-way costs if construction had not begun or progressed within a specified time period.

Specifically, these are US Code 23 Section 102(b) (preliminary engineering) and US Code 23 Section 108 (a)(2) (right-of-way). These sections are as follows:

US Code 23 Section 102 (b): Engineering Cost Reimbursement—If on-site construction of, or acquisition of right-of-way for, a highway project is not commenced within 10 years (or such period as the State requests and the Secretary (of FHWA) determines to be reasonable) after the date on which Federal funds are first made available, out of the Highway Trust Fund (other than Mass Transit Account), for preliminary engineering of such project, the State shall pay an amount equal to the amount of Federal funds made available for such engineering. The Secretary shall deposit in such Fund all amounts paid to the Secretary under this section.

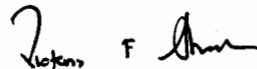
US Code 23 Section 108 (a)(2): Advance Acquisition of Real Property—Construction—The agreement between the Secretary and the State for the reimbursement of the cost of the real property shall provide for the actual construction of the transportation improvement within a period not to exceed 20 years following the fiscal year for which the request is made, unless the Secretary determines that a longer period is reasonable.

The State DOT has identified federal projects that are subject to reimbursement under either of these two sections of the US Code. The Department proposes to use the \$6,000,000 to fund required reimbursements to FHWA for right of way costs associated with Federal aid projects that will not move to construction and non-participating construction costs associated with Federal aid projects. Non-participating construction costs are the result of latent unforeseen conditions that occur during the execution of a Federal aid project.

These funds are FHWA federal funds and pursuant to FHWA guidelines, are not applicable to Class 040 Indirect Costs, Class 041 Audit Fund Set Aside and Class 042 Additional Fringe Benefits.

Your approval of this resolution is respectfully requested.

Sincerely,



Victoria F. Sheehan
Commissioner

Attachment

Department of Transportation
FISCAL SITUATION FISCAL YEAR 2017
04-096-096-963015-3049

Non-participating Construction/Reconstruction

Estimated revenue budgeted:	\$	-
Prior year carryforward revenue:	\$	560,573
Additional non-budgeted revenue:	\$	<u>6,000,000</u>
 Amount available to budget:	 \$	 6,560,573
Less current FY17 budget authorization:	\$	<u>560,573</u>
 Total available for budgeting:	 \$	 6,000,000
 Amount to be budgeted this request:	 \$	 <u>6,000,000</u>
 Amount available to budget with future requests:	\$	<u>0</u>

Source of Non-Budgeted Revenue	Amount	Expenses through 6/30/17	Balance
Federal Highway Funds	\$ 6,000,000	\$ -	\$ 6,000,000
		\$ -	\$ -
		\$ -	\$ -
Totals	<u>\$ 6,000,000</u>	<u>\$ -</u>	<u>\$ 6,000,000</u>