



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



Victoria F. Sheehan
Commissioner

William Cass, P.E.
Assistant Commissioner

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June 28, 2018
Project Development Division

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

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

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 \$5,245,000 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, 2019. 100% Federal Funds

Table with 4 columns: Description, Current Budget FY2019, Requested Change FY2019, Revised Budget FY2019. Rows include Non-Participating Construction / Reconstruction, Expenses (046 500463 Consultants, 400 500870 Construction-Repairs & Materials, 401 500876 Land Interest, Total).

Table with 4 columns: Source of Funds, Current Budget FY2019, Requested Change FY2019, Revised Budget FY2019. Rows include Revenue (000 409151 Federal Funds, 000 000015 Highway Funds, Total).

EXPLANATION

The Department bills the FHWA for expenditures on work performed on participating Federal projects. Revenues received are higher due to the closing of projects, reconciliation and reimbursement of previous year expenditures. The revenues will be used to reimburse FHWA for right of way costs associated with projects not in compliance with FHWA US Code. 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. In Fiscal Year 2019 the State may be required to make reimbursements to FHWA under these sections of the code by FHWA.

The Department proposes to use the \$5,245,000 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,

A handwritten signature in black ink, appearing to read "Victoria F. Sheehan". The signature is fluid and cursive, with a large initial "V" and "S".

Victoria F. Sheehan  
Commissioner

**Department of Transportation**  
**FISCAL SITUATION FISCAL YEAR 2019**  
**04-096-096-963015-3049**

Non-participating Construction/Reconstruction

Estimated revenue budgeted:	\$	450,000
Prior year carryforward revenue:	\$	8,462,843
Additional non-budgeted revenue:	\$	<u>5,245,000</u>
Amount available to budget:	\$	14,157,843
Less current FY19 budget authorization:	\$	<u>8,912,843</u>
Total available for budgeting:	\$	5,245,000
Amount to be budgeted this request:	\$	<u>5,245,000</u>
Amount available to budget with future requests:	\$	<u>-</u>

Source of Non-Budgeted Revenue	Amount	Expenses through 6/30/18	Balance
Federal Highway Funds	\$ 5,245,000	\$ -	\$ 5,245,000
		\$ -	\$ -
		\$ -	\$ -
<b>Totals</b>	<u>\$ 5,245,000</u>	<u>\$ -</u>	<u>\$ 5,245,000</u>