



Victoria F. Sheehan
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



William Cass, P.E.
Assistant Commissioner

FIS 20 001

20

December 11, 2019
Project Development Division

The Honorable Mary Jane Wallner, 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

1. Pursuant to RSA 9:16-a, authorize the Department of Transportation to transfer \$5,000,000 between various accounts and classes effective upon Fiscal Committee and the date of Governor and Council approval through June 30, 2020 as follows:

In SFY20, funds shall be transferred from 04-096-096-963515-3311 – Non-Participating I-93 Construction as follows:

04-096-096-963515-3311 Non-Participating I-93 Construction	Current Budget FY2020	Requested Change FY2020	Revised Budget FY2020
Expenses:			
046 500463 Consultants	\$953,273	\$0	\$953,273
400 500870 Construction-Repairs & Materials	5,693,789	(5,000,000)	693,789
401 500876 Land Interest	750,000	0	750,000
Total	\$7,397,062	(\$5,000,000)	\$2,397,062
Source of Funds			
Revenue:			
000 000015 Highway Funds	\$7,397,062	(\$5,000,000)	\$2,397,062
Total	\$7,397,062	(\$5,000,000)	\$2,397,062

In SFY20, funds shall be transferred to 04-096-096-963015-3049 – Non-Participating Construction/Reconstruction as follows:

04-096-096-963015-3049 Non-Participating Construction / Reconstruction	Current Budget FY2020	Requested Change FY2020	Revised Budget FY2020
Expenses:			
046 500463 Consultants	\$817,872	\$0	\$817,872
400 500870 Construction-Repairs & Materials	1,302,795	0	1,302,795
401 500876 Land Interest	12,455,789	5,000,000	17,455,789
Total	\$14,576,456	\$5,000,000	\$19,576,456
Source of Funds			
Revenue:			
000 000015 Highway Funds	\$14,576,456	\$5,000,000	\$19,576,456
Total	\$14,576,456	\$5,000,000	\$19,576,456

2. Pursuant to RSA 14:30-a, VI, authorize the New Hampshire Department of Transportation to accept and expend revenue in the amount of \$2,106,165 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, 2020. 100% Federal Funds

04-096-096-963015-3049 Non-Participating Construction / Reconstruction	Current Budget FY2019	Requested Change FY2019	Revised Budget FY2019
Expenses:			
046 500463 Consultants	\$817,872	\$0	\$817,872
400 500870 Construction-Repairs & Materials	1,302,795	0	1,302,795
401 500876 Land Interest	17,455,789	2,106,165	19,561,954
Total	\$19,576,456	\$2,106,165	\$21,682,621
Source of Funds			
Revenue:			
000 409151 Federal Funds	\$0	\$2,106,165	\$2,106,165
000 000015 Highway Funds	19,576,456	0	19,576,456
Total	\$19,576,456	\$2,106,165	\$21,682,621

EXPLANATION

1. The Department requests authorization to transfer budgeted account funds among the various accounts in order to pay for services incurred in meeting the State's transportation demands. Specific explanations relating to the Department's spending requests are as follows:

Non - Participating I-93 Construction (3311) 100% Highway Funds

Class 400 Decrease Construction – Repairs & Materials by \$5,000,000. This accounting unit was intended to be a contingency account for any non-participating costs related to the I-93 expansion project from Salem to Manchester. At this time, all bids for construction projects for the I-93 widening have been received and are funded. Only two projects remain in active construction and it is not anticipated that these contingency funds will be needed for the project. These two projects are anticipated to be complete in the Fall of 2020. A balance of \$420,047 remains in the account for any conditions that may arise that Federal funds would not participate in.

Non - Participating Construction / Reconstruction (3049) 100% Highway Funds

Class 401 Increase Land Interest by \$5,000,000. In Fiscal Year 2020 the State may be required to make reimbursements to FHWA under US Code 23 Section 108 (a)(2): Advance Acquisition of Real Property—Construction. The State DOT has identified federal projects that are subject to reimbursement under the section of the US Code. In Fiscal Year 2020 the State may be required to make reimbursements to FHWA under this section of the code by FHWA.

The Department proposes to use the \$5,000,000 to fund required reimbursements to FHWA for right of way costs associated with Conway and 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.

The following is provided in accordance with the Budget Officer's instructional memorandum dated April 17, 1985 to support the above requested actions:

1. Does transfer involve continuing programs or one-time projects?
Transfers are for continuing programs (not one-time).

2. Is this transfer required to maintain existing program level or will it increase program level?
Transfers are to maintain existing program levels (no increase in program level).
3. Cite any requirements, which make this program necessary.
RSA 21-L:2, in part, establishes that the Department will be responsible for planning, developing, and maintaining a state transportation network. This transfer will facilitate the accomplishment of this responsibility.
4. Identify the source of funds on all accounts listed on this transfer.
Source of funds are Highway Funds.
5. Will there be any effect on revenue if this transfer is approved or disapproved?
This transfer will have no effect on revenue.
6. Are funds expected to lapse if this transfer is not approved?
No.
7. Are personal services involved?
The transfer does not result in any new positions.

2. 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, direct reimbursement of labor higher than budget 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 right-of-way costs if construction had not begun or progressed within a specified time period. Specifically, US Code 23 Section 108 (a)(2) (right-of-way) as follows:

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.

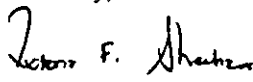
The State DOT has identified federal projects that are subject to reimbursement under the section of the US Code. In Fiscal Year 2020 the State may be required to make reimbursements to FHWA under this section of the code by FHWA.

The Department proposes to use the \$2,106,165 to fund required reimbursements to FHWA for right of way costs associated with Conway and 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 2020
04-096-096-963015-3049

Non-participating Construction/Reconstruction

Estimated revenue budgeted:	\$ 450,000
Prior year carryforward revenue:	\$ 14,126,456
Additional non-budgeted revenue:	<u>\$ 2,106,165</u>
Amount available to budget:	\$ 16,682,621
Less current FY20 budget authorization:	<u>\$ 14,576,456</u>
Total available for budgeting:	\$ 2,106,165
Amount to be budgeted this request:	<u>\$ 2,106,165</u>
Amount available to budget with future requests:	<u>\$ -</u>

Source of Non-Budgeted Revenue	Amount	Expenses through 11/30/2019	Balance
Federal Highway Funds	\$ 2,106,165	\$ -	\$ 2,106,165
		\$ -	\$ -
		\$ -	\$ -
Totals	<u>\$ 2,106,165</u>	<u>\$ -</u>	<u>\$ 2,106,165</u>