

## The Process to Determine Bridge Ownership & Bridge Ownership Responsibilities

For New and Replacement Bridges Carrying Facilities over a Trunk Highway

### **Process statement**

The Minnesota Department of Transportation will own and bear responsibility for all bridges that carry facilities over Trunk Highways except for those bridges where responsibilities are shared as identified by this process.

### **Reason for process**

Past practice led to MnDOT owning most Trunk Highway overpass or underpass bridges. MnDOT ownership was appropriate in times when most grade separations resulted from the construction of the interstates, other freeways, or Trunk Highway-to-Trunk Highway grade separations. In those situations that would still be the practice today.

In more recent times, population growth, changes in traffic patterns and volumes, and changes in funding availability has resulted in a growing number of new grade separations involving local infrastructure crossing Trunk Highways. These new crossings are frequently driven by local needs. MnDOT may not be in a financial position to construct and take ownership of bridges that do not address Trunk Highway performance issues and so they are increasingly being funded by local agencies.

The number of factors in these case-by-case ownership decisions has led to potentially inconsistent decisions being made.

The purpose of this document is to establish a uniform process for determining ownership and assigning ownership responsibilities of bridges at grade separations involving Trunk Highways.

This guidance is intended to be applied to new and replacement bridges over trunk highways that are engineered and/or constructed after the effective date of this guidance. It is not intended to be applied retroactively to bridges that have prior agreements or arrangements in place for maintenance, unless all parties desire such a change.

### **Bridge Ownership Philosophy**

Taking ownership of a bridge has implications for decades, and should not be based on transient factors, but should be based on what best serves the public over the life of the bridge. For most bridges crossing over Trunk Highways, MnDOT is the owner of the bridge and accepts all the bridge ownership responsibilities therefor. In circumstances where the local road bridge passing over the Trunk Highway exists primarily to serve local needs, either a local agency or MnDOT may be named the owner, but the local will share in the ownership responsibilities for the bridge and may be the designated owner as well.

### **Definition of Bridge Owner**

For the purposes of this guidance, “bridge owner” means the following.

- The owner possesses the overall obligation to ensure that the structure does not present an unacceptable safety risk to the public.
- The owner is listed in the NBIS database Item 22 as instructed in the NBIS coding guide.

- *NBIS Item 22 “Owner.” The actual name(s) of the owner(s) of the bridge shall be recorded on the inspection form. The codes used in Item 21 “Maintenance Responsibility” shall be used to represent the type of agency that is the primary owner of the structure. If more than one agency has equal ownership, code one agency in the hierarchy of State, Federal, county, city, railroad, and other private. [Taken from the FHWA’s [Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation’s Bridges](#)]*

### **Bridge Ownership Responsibilities**

Ownership of a bridge includes many responsibilities. Those responsibilities may be shared or delegated based upon an agreement between MnDOT and other local agencies, not unlike a traffic signal agreement. These are some of the common ownership responsibilities in addition to those listed in the definition.

- Initial construction costs
- Regular NBIS inspection, underwater inspection, and fracture critical bridge inspection
- Minor maintenance (such as snow and ice removal, pavement markings, and guardrail)
- Major maintenance (such as painting, re-decking, and rehabilitation)
- Emergency response
- Recovering restitution claims
- Permitting for oversize/overweight loads and special uses
- Rehabilitation and replacement. Eligibility for bond funding in the future may rest on who is identified as owner.

Regardless of whether MnDOT is identified as the owner, MnDOT will respond to bridge hits to determine the immediate safety for the travelling public. MnDOT will typically perform the bridge inspection, with potential cost sharing by the local agency, and will make relevant bridge management option recommendations to the fiscally responsible local agency or agencies based upon those inspections.

For additional details on responsibilities of the bridge owner, refer to chapter A of the [Bridge and Structure Inspection Program Manual](#).

In some cases where MnDOT is the owner, MnDOT may not have any cost responsibility whatsoever. Responsibility for construction, maintenance, inspection, and replacement costs could be up to 100% with other agencies by agreement. Any costs incurred by MnDOT as the owner could be reimbursed as MnDOT may require and as documented in the agreement. NBIS Item 21 “Maintenance Responsibility” would refer to the agency with fiscal responsibility for the maintenance and inspection, or the agency with the majority share of the fiscal responsibility.

### **Procedures to Determine Bridge Ownership and Bridge Ownership Responsibilities**

To aid in creating uniformity for dividing ownership responsibilities, the following process shall be followed.

Using the definition and list of ownership responsibilities in this procedure, the following case scenarios describe how ownership should be determined and how ownership responsibilities are divided where the bridge is shared infrastructure. Division of ownership responsibilities is similar to how construction costs are divided in the Policy on Cost Participation and Maintenance Responsibilities with Local Units of Government (Cost Participation Policy). Assignment of responsibilities must always be made in a written agreement.

For the NBIS records, one owner needs to be identified for each bridge, but ownership responsibility need not be all or nothing. Shared ownership responsibility documented in an agreement is acceptable and encouraged where full ownership responsibility by one party is not reasonable. The following are the four most common cases for bridge ownership for bridges over Trunk Highways.

## 1. MnDOT Identified as Bridge Owner

In the majority of cases MnDOT owns the new bridge and is responsible for most or all the bridge ownership responsibilities. The cost participation policy is a good guide. Where MnDOT pays 100% of the initial cost, MnDOT is likely to also be the sole owner with all bridge ownership responsibilities, except for minor maintenance by the local agency if the bridge carries local traffic. **MnDOT will be listed as the owner in the NBIS database.**

MnDOT will own and assume ownership responsibility for bridges at grade separations in these situations.

- a) Bridges carrying a Trunk Highway over another Trunk Highway or public road.
- b) Bridges for new grade separations with local facilities caused by conversion of a Trunk Highway to a freeway or construction of a new freeway.
- c) New bridges in a new trunk highway interchange or a grade separation that addresses a Trunk Highway safety or capacity issue with no important local system benefits, or other bridges constructed at MnDOT's discretion.
- d) Bridges that replace currently-owned MnDOT bridges in-kind. In-kind includes modernization to current standards and may include elements such as pedestrian/bicycle connections (typically two standard-width sidewalks or one standard-width trail), new turn lanes, or wider shoulders that are consistent with current design standards, including modernizations to existing overpasses and interchanges. An example of not-in-kind is converting a rural two-lane bridge to an urban four-lane bridge due to local growth. Modernizations would not include replacing an existing interchange type, such as a standard or compressed diamond interchange, with a diverging diamond (DDI) or single point urban interchange (SPUI), for example, that has considerably more deck area. These latter cases would fall under #2 below with MnDOT Identified as Owner with Shared Responsibilities.

The bridge ownership agreement should identify cost shares for future bridge rehabilitation or replacement. The current Cost Participation Policy provides the following direction for that agreement.

- Structural replacement - MnDOT will pay the full cost of replacing the existing bridge, to applicable design standards to accommodate the existing number of through lanes, at the end of its structural life. Early replacement at local request is prorated.
  - Functional replacement - For local roadways over the trunk highway, MnDOT will be responsible for up to 80%, of additional approach panel costs and bridge costs associated with the bridge widening necessitated by the local road widening. MnDOT participation will be limited to the additional width necessary to accommodate the design criteria for the applicable State Aid projection factor.
- e) A prior agreement prescribes MnDOT ownership of the bridge.
  - f) A legislatively authorized Trunk Highway bond appropriation funded the bridge construction.

## 2. MnDOT Identified as Bridge Owner with Shared Ownership Responsibilities

For bridges that have been determined to have shared local and trunk highway benefit or responsibility, **MnDOT will be listed as the owner in the NBIS database**. Potential cost sharing will be negotiable for bridge ownership responsibilities and must be documented in an agreement. Examples that would fall under this category include:

- new locally initiated interchange or overpass that addresses both trunk highway safety/capacity issues and provides additional local road connectivity or more convenient access to developable land.
- converting an existing rural two-lane bridge, currently owned by MnDOT, to an urban four-lane bridge due to local growth
- replacing an existing diamond interchange bridge with a DDI or SPI that has considerably more deck area

## 3. Railroad, Transit, or Private Party Identified as Bridge Owner

In some unique cases, MnDOT, counties, and cities are not owners at all. These include railroads, bus rapid transit, light rail, private bridges, or bridges owned by state or federal agencies. **These types of bridges would be listed as owned by other agencies in the NBIS database** with ownership responsibilities by such party. Bridges such as these will typically be allowed by MnDOT via permit.

## 4. MnDOT Identified as Bridge Owner with Local Financial Responsibility

When the new bridge over the Trunk Highway is driven mainly by local interests such as providing additional local road or non-motorized connectivity or more convenient access to developable land, with no important trunk highway benefits, **MnDOT will be listed as the owner in NBIS database**. MnDOT would have only the responsibilities in the Definition of a Bridge Owner section above. Bridge ownership responsibilities and cost sharing must be identified in an agreement. MnDOT likely would have no financial responsibility. MnDOT would work in partnership with the local agency on the scope and schedule of technical bridge management, repair, or replacement recommendations.

**The local agency may be identified as the owner in the NBIS database** if mutually agreed to. The ownership agreement would define the local agency's bridge ownership responsibilities and cost sharing.

Ownership responsibilities need not mirror the cost participation shares, however, the cost participation policy does identify responsibilities for some initial construction and ongoing maintenance costs that are included in the ownership responsibility decision. The cost participation policy applies regardless of how ownership is negotiated.

As with cost participation, this process is not binding upon MnDOT or another agency until the agencies have signed an agreement.

MnDOT will assert operational control of a bridge if, in their sole opinion, an unreasonable risk to the Trunk Highway exists. MnDOT will always respond to a bridge hit to determine the immediate safety for the travelling public.

Early in the development of the project, the MnDOT Project Manager will negotiate both initial capital cost participation and ownership responsibilities for any bridges carrying local routes, transitways, or other non-trunk highway traffic over Trunk Highways. Ownership responsibilities may be divided among agencies or may

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be shared jointly through cost-sharing. Responsibilities can be divided in any agreed upon manner. Results of the negotiation must be captured in an agreement.

## **Authority**

This process constitutes guidance to the Districts on determining ownership. The District Engineer has the authority to negotiate on the elements of bridge ownership within the bounds of this guidance.

Bridge ownership and bridge ownership responsibilities will typically be documented in an agreement. Just as cost splits are reviewed by the Agreements Unit, so will the ownership determination be reviewed. Significant departures from the standard practice will result in the Agreements Unit verifying the decision with the District Engineer and the State Bridge Engineer.

If the decision does not conform to this guidance, then the decision must be approved by the Assistant Commissioners for Operations and Engineering Services. The following factors should be considered.

1. The bridge must meet the constitutional and statutory requirements for being an eligible use of Trunk Highway funds. All typical trunk highway crossings meet this requirement.
2. If the proposed ownership causes a MnDOT cost share beyond the amount allowed by the Cost Participation Policy, an exception to that policy may be required also.
3. The requestor should provide clear justification for why the guidance should not be followed.

## **Applicability**

This guidance will be included in appropriate MnDOT documents, including the Bridge Inspection Manual, the Cost Participation Policy Manual, the Land Management Manual, and the Highway Project Development Process web-page resources.

## **Effective Date of this guidance**

This guidance applies to all new or replacement bridges over Trunk Highways beginning on August 28, 2020. This guidance is not intended to supersede existing agreements or prior ownership decisions.

## Ownership Responsibilities Summary

- A. **Initial construction costs** may be divided in any manner. Frequently new bridges over Trunk Highways are funded with regional or local agency funds. MnDOT's share is limited by the Cost Participation Policy. Where there are multiple agencies with infrastructure interests on the bridge, costs may be divided costs by percentage of deck area of lanes, paths, or transitways or other agreed upon method.
- B. **Bridge inspections** are required by state and federal law. MnDOT inspects all of the bridges it owns and many of the bridges over Trunk Highways that are owned by local agencies. Costs may be reimbursed if in an agreement. The code for the agency performing the inspection is stored in MnDOT's Structure Information Management System (SIMS).
- C. **Minor maintenance** includes non-structural maintenance activities on the bridge, including but not limited to, keeping the roadway, bridge deck, shoulders, medians, gutters, sidewalks, and shared use paths clear of ice, snow, litter and debris, appropriate disposal of such material, pavement markings, guardrail, and non-structurally supported signing.
- D. **Major maintenance** includes all structure-related maintenance, including painting, re-decking and rehabilitation of the bridge, including the deck, rails, sidewalk and supporting structural elements, concrete bridge approach panels, and structurally-supported signing on the bridge. The code for the agency responsible for the majority share of major maintenance costs is stored in the NBIS database.
- E. **Emergency response** is provided by MnDOT in response to bridges hit by vehicles for any bridge over a Trunk Highway as part of its responsibilities to assure the safety for the traveling public on the local route and the Trunk Highway below.
- F. **Restitution** from insurance companies or private parties who have damaged a bridge is the responsibility of the party with major maintenance cost responsibilities.
- G. **Permits** related to bridges fall include these main types.
- 1) **Utility permits** are issued by MnDOT anytime a utility crosses the Trunk Highway right-of-way at any location. MnDOT will coordinate with the local agencies when permits are issued for crossings on bridges with local ownership responsibility.
  - 2) **Oversize permits** are issued by the local agency with jurisdiction of the route carried on the bridge over a trunk highway. The agency issuing the permit is responsible for checking clearances as well as determining if a pre-trip route survey is necessary. See the overweight permit guidance below for permit applications that also include overweight vehicles.
  - 3) **Overweight permits** are issued in accordance with processes described on the MnDOT State Aid Bridge Overweight Permit website at: <http://www.dot.state.mn.us/stateaid/bridge/overweight-permits.html>. Bridges that are owned by MnDOT and carry a local agency route follow the "MnDOT Owned Bridges on Local Roadway Overweight Permitting Process Flowchart." Bridges that are owned by a local agency follow the "Local Bridge Overweight Permit Process Flowchart."
  - 4) **Special use permits** are issued by the local agency with jurisdiction of the route carried on the bridge; however, the applicant must also obtain a Parade/Special Event/Banner permit from MnDOT prior to performing the event.
  - 5) **Flags** may only be installed by MnDOT at any location within MnDOT right-of-way including bridges over the trunk highways regardless of the ownership of the bridge.
- H. **Future reconstruction or replacement costs** may be divided in any manner, but MnDOT's share cannot be more than is allowed in the Cost Participation Policy. Where there are multiple agencies with infrastructure interests on the bridge, costs may be divided by percentage of deck area of lanes, paths, or transitways or other agreed upon method.

<b>Bridge Ownership Examples</b> <b>Local Road over Trunk Highway</b> (MnDOT is the NBIS Owner in all these cases)	Ownership Responsibilities							
	Initial Costs	Bridge Inspection Costs <sup>2</sup>	Major Maintenance	Minor Maintenance	Emergency Response	Permits	Restitution Recovery	Rehab or Replace
1. MnDOT owned, MnDOT led bridge rehab or replacement with modern standards (shoulders, sidewalk or trail, turn lanes, etc.)	See Cost Participation Policy <sup>3</sup>	MnDOT	MnDOT	Local Agency	MnDOT	Both	MnDOT	See Cost Participation Policy <sup>3</sup>
2. MnDOT owned, locally led bridge rehab or replacement with modern standards (shoulders, sidewalk or trail, turn lanes, etc.) Example: 35E & County Road J	Locally led funding package <sup>1</sup>	MnDOT	MnDOT	Local Agency	MnDOT	Both	MnDOT	See Cost Participation Policy <sup>3</sup>
3. MnDOT owned, MnDOT led bridge replacement, widening with additional thru lanes, BRT, LRT, or different interchange type (DDI, SPUI, e.g.)	See Cost Participation Policy <sup>3</sup>	Costs shared by agencies	Costs shared by agencies	Local Agency	MnDOT	Both	MnDOT	Costs shared by agencies
4. MnDOT owned, locally led bridge replacement, widening with additional thru lanes, BRT, LRT, or different interchange type (DDI, SPUI, e.g.) Example: 4 <sup>th</sup> Street over I-694	Locally led funding package <sup>1</sup>	Costs shared by agencies	Costs shared by agencies	Local Agency	MnDOT	Both	MnDOT	Costs shared by agencies
5. New interchange or overpass over a new freeway or expressway Example: Dodge County Road CSAH 3 over TH 14 between Owatonna and Dodge Center	See Cost Participation Policy <sup>3</sup>	MnDOT	MnDOT	Local Agency	MnDOT	Both	MnDOT	See Cost Participation Policy <sup>3</sup>
6. MnDOT led new interchange or overpass on an existing freeway or expressway	See Cost Participation Policy <sup>3</sup>	MnDOT	MnDOT	Local Agency	MnDOT	Both	MnDOT	See Cost Participation Policy <sup>3</sup>
7. Locally led new interchange or overpass, primarily addressing TH safety/capacity issues	Locally led funding package <sup>1</sup>	MnDOT	MnDOT	Local Agency	MnDOT	Both	MnDOT	See Cost Participation Policy <sup>3</sup>
8. Locally led new interchange or overpass, primarily for local access, including ped bridges Example: Helmo Ave/Bielenberg Dr	Locally led funding package <sup>1</sup>	Local Agency	Local Agency	Local Agency	MnDOT	Both	Local Agency	100% Local Agencies
9. Locally led new interchange or overpass, addressing TH safety/capacity issues and providing improved local access. Example: TH 12/CSAH 92, TH 36/Manning Ave, TH 36/Hadley Ave	Locally led funding package <sup>1</sup>	Costs shared by agencies	Costs shared by agencies	Local Agency	MnDOT	Both	MnDOT	See Cost Participation Policy <sup>3</sup>

<sup>1</sup> Locally led funding package may or may not include MnDOT funds.

<sup>2</sup> With local cost responsibility, it is expected that typically the local agency would contract with MnDOT to perform the inspection, but it is not required.

<sup>3</sup> MnDOT's Cost Participation Policy describes the limits of Trunk Highway Fund eligibility. MnDOT's cost share may be up to 100% of eligible costs unless limited by the policy.