



COST PARTICIPATION

FOR COOPERATIVE CONSTRUCTION PROJECTS AND
MAINTENANCE RESPONSIBILITIES BETWEEN MNDOT AND
LOCAL UNITS OF GOVERNMENT

POLICY FM011, EFFECTIVE 2016-02-24

POLICY STATEMENT

The policy provides a framework to determine the potential expenditure of trunk highway funds on elements of cooperative construction projects and maintenance. The basis of this policy is that Minnesota Department of Transportation (MnDOT) participation is limited to trunk highway purposes.

This policy is for internal MnDOT purposes only, and does not provide any claim or expectation of legal entitlement to financial participation, except where MnDOT has specifically contracted at its sole discretion for such participation. MnDOT retains the final authority to determine whether it will participate in the cost of any project.

Use this policy in conjunction with the *Cost Participation and Maintenance with Local Units of Government* [Manual](#).

REASON FOR POLICY

Where a mutual benefit and a demonstrated transportation need exist, MnDOT endorses cooperative construction projects with local units of government. MnDOT developed this policy in accordance with Minnesota statutes and rules and in coordination with applicable MnDOT policies. The Related Information section of this policy lists relevant references.

Principal Points

- MnDOT participation in cooperative construction projects and subsequent maintenance with local governments is limited to trunk highway purposes.
- Cooperative construction projects may be initiated by MnDOT requesting local participation in a trunk highway project, or by a local unit of government either:
 - Requesting improvements or otherwise indicating its willingness to share the cost of a MnDOT project; or
 - Requesting MnDOT cost participation in a locally initiated project.
- This policy is for internal MnDOT purposes only. It does not provide any claim or expectation of legal entitlement to financial participation, except where MnDOT has specifically contracted at its sole discretion for such participation. MnDOT retains the final authority to determine whether it will participate in the cost of any project.

SENIOR OFFICERS

*Deputy Commissioner - Chief Engineer
Chief Financial Officer*

POLICY OWNERS

*Director, Office of Transportation
System Management*

*Director, Office of Project
Management & Technical Support*

POLICY CONTACT

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POLICY HISTORY

*1985-08-07, Established
2001-06-xx, Revision 1
2004-04-xx, Revision 2
2014-02-14, Revision 3
2016-02-24, Revision 4*

[MnDOT Policy Website](#)

Application of Policy

- This policy applies to all trunk highway funds, and in particular, funds in the State Road Construction (SRC) account. The SRC account is comprised of federal aid funds made available to MnDOT and state funds dedicated to the trunk highway fund. All funds allocated to the State Road Construction account are subject to requirements and restrictions of the account, specifically that funds are for trunk highway purposes only, regardless of the original source of the funds.
- This policy applies to the determination of:
 - Extent to which a local unit of government funding participation is necessary for portions of a MnDOT initiated trunk highway construction project;
 - Extent to which MnDOT may participate in a locally initiated project that affects the trunk highway system;
 - Maintenance responsibilities resulting from the cooperative construction project

Scope of Policy

- MnDOT participation, in accordance with this policy, is limited to the project scope necessary to address the trunk highway purposes as determined by the district and approved as required. Costs for items requested by local units of government, beyond those determined as necessary by the district, will be the responsibility of the local unit of government.
- This policy is for application to MnDOT projects. MnDOT's cost participation identified in this policy may also apply to locally initiated projects, with eligible trunk highway items. Refer to the [Manual](#) Section II.A. "Definition of Scope" for details regarding MnDOT participation in locally initiated projects.
Further clarification of cost participation for MnDOT special funding programs are a part of the program criteria.

WHO NEEDS TO KNOW THIS POLICY?

- MnDOT personnel and local agency representatives involved in determining funding sources, planning, and executing agreements for cooperative construction projects between MnDOT and local units of government.
- Anyone involved in planning, designing, constructing or maintaining a MnDOT or local federal-aid project, including but not limited to: MnDOT personnel, local agency representatives, and consultants.

DEFINITIONS

Cooperative Construction Agreement

A cooperative construction agreement is an agreement between MnDOT and a local unit of government pursuant to [Minnesota Statutes §161.20](#) *General Powers of Commissioner*, [Minnesota Statutes §161.38](#) *Special Agreements for Highways in Municipalities*, [Minnesota Statutes §161.45](#) *Utility on Highway Right-of-Way; Relocation*, concerning construction or maintenance in which both parties have an interest.

Cooperative Construction Project

A cooperative construction project that includes trunk highway and local road improvements in which costs or maintenance responsibilities are shared between MnDOT and local units of government.

Locally initiated Project

A local initiated transportation project is a project in which the need, scope, or means to accomplish the project is predominantly a determination of and priority for the local unit of government.

MnDOT initiated Project

A MnDOT initiated transportation project is a project in which the need, scope, or means to accomplish the project is predominantly a determination of and priority for MnDOT.

State Road Construction

State road construction is the actual construction, reconstruction, and improvement of trunk highways, including right-of-way.

State Road Construction Account (SRC)

The State Road Construction Account is the biennial appropriation of funds by the legislature for trunk highway purposes only. This appropriation is comprised of federal aid funds made available to MnDOT and state funds dedicated to the trunk highway fund. All funds allocated to the SRC are subject to requirements and restrictions of the account, specifically that funds are for trunk highway purposes only, regardless of the original source of the funds.

State Transportation Improvement Program (STIP)

The STIP is a federally required document that provides a list of transportation projects that are expected to be funded with federal transportation dollars within a four-year window. This list of projects includes state and local transportation projects funded with federal highway or federal transit funds. Minnesota also includes most projects on the state trunk highway system regardless of funding source (federal or state). Rail, port, and aeronautic projects are included for information purposes. Refer to the website for details, [State Transportation Improvement Program](#).

Trunk Highway Fund

This fund is the principal operating fund for MnDOT and to some extent for the Minnesota State Patrol at the Department of Public Safety. It is a governmental fund that accounts for public monies used to construct, improve, and maintain Minnesota's trunk highway transportation infrastructure. Annual transfers of funds to Minnesota Management & Budget (MMB) for Trunk Highway-related debt service are from this fund.

Trunk Highway System

All roads established or to be established under the provisions of [Constitution of the State of Minnesota, Article XIV, section 2](#). This system includes highways that are constructed, improved, and maintained as public highways under the jurisdiction of the Commissioner of Transportation, including highways on the Interstate system.

PROCEDURES

Application of Policy and Procedures

Application and procedures related to this policy are in the [Manual](#). The Manual includes details for applying the policy to projects for cost participation and maintenance responsibilities, methods for computing cost shares, and relevant agreement procedures. To understand the policy, the procedures, and to avoid misinterpretation, use the Policy and Manual documents together.

Exceptions to Policy

Districts must document exceptions to this policy. The district engineer will submit that justification to the Cooperative Agreements Unit, which forwards the request to the Assistant Commissioner for Engineering Services Division and the Assistant Commissioner for Operations Division for concurrence, then to the Chief Financial Officer for approval. The merits of such requests will be determined on a case-by-case basis. Exceptions will be granted for project work that meets trunk highway purposes and is eligible for trunk highway expenditures.

Enforcement of Policy

- MnDOT districts work with the MnDOT Cooperative Agreements Unit to apply this policy to projects.
- The MnDOT Cooperative Agreements Unit makes the final determination of cost participation responsibilities, in cooperation with the district, during the agreement development process.
- Final cost participation and maintenance responsibilities appear in cooperative agreements between MnDOT and local units of government, for each project.

RESPONSIBILITIES

Office of Transportation System Management (Central Office)

- **Funding Program Coordinator** – The Funding Program Coordinator serves as a liaison and assures compliance and oversight for application of this policy.
- **STIP Coordinator** - Works with districts to ensure that cost estimates for MnDOT and local shares of projects are correctly identified in the State Transportation Improvement Program (STIP) and that appropriate anticipated funding sources are identified for each participating agency share.

Chief Financial Officer and the Office of Financial Management (Central Office)

- The Office of Financial Management provides financial oversight and makes determinations on trunk highway purpose where there is no precedence or clarity.
- The Chief Financial Officer is ultimately responsible for interpreting trunk highway purpose as stated in the Constitution and state law and assuring MnDOT is compliant.

Office of Project Management and Technical Support (Central Office)

- **Municipal Agreements Engineer** – The Municipal Agreements Engineer serves as a liaison and assures compliance and oversight for application of this policy. The Municipal Agreements Engineer also ensures that construction plan information and cooperative agreement documents are consistent with the STIP, with the cost participation responsibilities developed during project development, and with this policy.
- **Cooperative Agreements Unit** – The Cooperative Agreements Unit provides assistance with application of this policy during project development as requested by the districts. They review documentation of project cost responsibilities and notify the districts of cost participation responsibilities that may be inconsistent with this policy. They also facilitate the review and approval of requests for exceptions to the application of this policy.

FREQUENTLY ASKED QUESTIONS

Q. To what funds does this policy apply?

A: This policy applies to all trunk highway funds, and in particular, State Road Construction (SRC) account funds, including funds that have been carved out of the SRC budget for MnDOT special funding programs, such as Transportation Economic Development (TED), Safety and Mobility Interchange (SAM), and Corridor Investment Management Strategy (CIMS). The SRC account is comprised of federal aid funds made available to MnDOT and state funds dedicated to the trunk highway fund. All funds allocated to the SRC account are subject to requirements and restrictions of the account, specifically that funds may only be expended for Trunk Highway purposes, regardless of the original source of the funds. Further clarification of cost participation for MnDOT special funding programs such as TED, SAM, or CIMS are part of the program criteria.

Q. Where are specific construction costs and maintenance responsibilities explained?

A: This policy's companion [Manual](#) contains guidance for determining construction cost participation and maintenance responsibilities between MnDOT and local units of government. The Manual also includes methods for computing cost shares, information about agreements, and other relevant procedures.

Q. How are trunk highway purposes defined?

A: [Minnesota Statutes §161.20, subdivision 3](#), "The commissioner may expend trunk highway funds only for trunk highway purposes." Constitutionally, trunk highway purposes are those that are necessary to construct, improve, and maintain the trunk highway system. Engineering due diligence and justification is required to define elements of projects that meet the constitutional and statutory definitions of trunk highway purposes. The [Manual](#) provides direction regarding the MnDOT cost participation in elements that meet trunk highway purposes.

Q. When should Project Managers begin determining construction cost participation and maintenance responsibilities between MnDOT and local units of government?

A: Project Managers should determine construction cost participation and maintenance responsibilities early in the project development process, as the project scope and trunk highway purposes are determined. It is important to consider the immediate costs for construction as well as the ongoing maintenance impacts, and then document responsibilities in municipal agreements to avoid misunderstandings between MnDOT and local units of government.

Q. When should Project Managers involve the Municipal Agreements Engineer?

A: Project Managers should confer with the Municipal Agreements Engineer as cost participation amounts are being estimated, before discussing cost shares with local units of government. This initial communication should occur early in the project development process as the project scope is being determined. The Municipal Agreements Engineer will work with Project Managers to ensure that construction plan information and cooperative agreement documents are consistent with the STIP, with the cost participation responsibilities developed during project development, and with this Policy.

Q. How does cost participation apply to Complete Streets design features?

A. The [MnDOT Complete Streets Policy](#) requires that the principles of Complete Streets be considered by MnDOT at all phases of planning and project development in the establishment, development, operation, and maintenance of a comprehensive, integrated, and connected multimodal transportation system. As such, the inclusion of Complete Streets design features such as sidewalks, bikeways, shared use paths, and transit facilities will be determined early in the project development process. Cost participation and maintenance responsibilities for these items are in the respective sections of the [Manual](#).

Q. How do this policy and the companion [Manual](#) determine responsibilities for ongoing snow and ice control/removal?

A. Responsibilities for snow and ice control/removal as well as other maintenance responsibilities on trunk highway rights-of-way, including sidewalks, will be documented in cooperative construction agreements or in separate maintenance agreements. These responsibilities are determined by Districts and local units of government, in consultation with the Municipal Agreements Engineer.

Q. If the local unit of government share of a project is less than \$5000, what is the process to apply for an exception?

A. The [MnDOT Cooperative Agreements Unit](#) has implemented an administrative process to address these instances. If the local cost share is less than \$5000, this administrative process will allow MnDOT to pay for additional trunk highway eligible expenses without going through a formal exception process. This administrative exception process will only allow MnDOT to participate in costs for project elements that meet trunk highway purposes; local units of government will be responsible for all elements that do not meet trunk highway purposes. If the local cost share is \$5000 or greater, a cooperative construction agreement will be written.

Q. Does a maintenance agreement need to be written if MnDOT is solely responsible for the costs of a trunk highway improvement project that affects local units of government?

A. When MnDOT and a local unit of government share maintenance responsibilities as the result of a cooperative construction project, those responsibilities can be written into the cooperative construction agreement or documented in a separate maintenance agreement. If MnDOT maintains sole responsibility for all maintenance costs resulting from a cooperative construction project, a maintenance agreement will not be written.

RELATED INFORMATION

This policy's companion [Manual](#) provides details for applying this policy to projects, methods for computing cost shares, and relevant procedures including agreements and permits.

This policy's procedures and requirements were developed in accordance with the following:

- As defined in [2013 Minnesota Laws, Chapter 117, Article 1, Section 3, subdivision \(c\) \(2\)](#), the biennial appropriation to the State Road Construction account "...is for the actual construction, reconstruction, and improvement of trunk highways, including design-build contracts and consultant usage to support these activities. This includes the cost of actual payment to landowners for lands acquired for highway right-of-way, payment to lessees, interest subsidies, and relocation expenses." This definition is subject to change with each appropriation but remains substantially constant over time.
- MnDOT's ability to expend trunk highway funds for cooperative construction projects is limited by the [Constitution of the State of Minnesota, Article XIV, section 2 and section 6](#) and by [Minnesota Statute §161.20](#).
- [Constitution of the State of Minnesota, Article XIV, section 2](#) establishes "... a trunk highway system which shall be constructed, improved and maintained as public highways of the state," and [Constitution of the State of Minnesota, Article XIV, section 6](#) establishes " ... a trunk highway fund which shall be used solely for the purposes specified in section 2 of this article."
- [Minnesota Administrative Rules §8810.3100 - 8810.3600](#), "Utilities and Equipment"
- [Minnesota Administrative Rules §8820](#), "Local State-Aid Route Standards, Financing"
- [Minnesota Statutes §161.20](#) "General Powers of the Commissioner"
- [Minnesota Statutes §161.20, subdivision 2](#), "Property acquisition; agreements and contracts"
- [Minnesota Statutes 161.20, subdivision 3](#), "Trunk highway fund appropriations"
- [Minnesota Statutes §161.21](#), "Location and Design of Highways; Cooperation with other Governmental Units"

- [Minnesota Statutes §161.24](#), *“Changes Required by Construction of Trunk Highway”*
- [Minnesota Statutes §161.25](#), *“Temporary Trunk Highway Detour; Haul Road”*
- [Minnesota Statutes §161.38, subdivision 1](#), *“Highway width or capacity”*
- [Minnesota Statutes §161.38, subdivision 3](#), *“Frontage road”*
- [Minnesota Statutes §161.38, subdivision 5](#), *“Definition of municipalities”*
- [Minnesota Statutes §161.38](#), *“Special Agreements for Highways in Municipalities”*
- [Minnesota Statutes §161.39](#), *“Aid to Other Road Authorities and State Departments”*
- [Minnesota Statutes §161.45](#), *“Utility on Highway Right-of-Way; Relocation”*
- [Minnesota Statutes §161.46](#), *“Reimbursement of Utility”*
- [Minnesota Statutes §162](#), *“State Aid Road System”*
- [Minnesota Statutes §169.04](#), *“Local Authority”*
- [Minnesota Statutes §169.35](#), *“Parking”*
- [MnDOT Complete Streets Policy](#)
- [MnDOT Contract Management Policy](#)
- [MnDOT Minnesota Tribal Nations Government-to-Government Relationship with MnDOT Policy](#)
- [MnDOT Partnership Agreements Policy](#)
- [MnDOT Utility Accommodation on Highway Right-of-Way Policy](#)

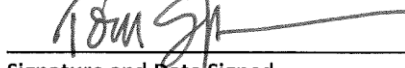
POLICY OWNERSHIP AND AUTHORIZATION

Policy Owner

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 2-22-16
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