

9.0 FUNDING AND IMPLEMENTING CORRIDOR IMPROVEMENTS

Potential funding sources for improvements to the US 93 corridor through Whitefish and other considerations relevant to the implementation of future projects are discussed in this Part. The primary funding sources for corridor improvements will be federal and state funds. However, other local government funding sources are described because such funds could help accomplish portions of the proposed projects or be used to implement off-system projects that would indirectly benefit the US 93 corridor.

Part 9.0 also discusses fiscal constraint requirements associated with planning for corridor improvements, regionally significant projects, and highlights NEPA/MEPA compliance activities needed to advance corridor improvement projects.

9.1 Potential Federal and State Funding Sources

The primary Federal and state funding sources for constructing highway improvements within the corridor are identified and briefly described on the following pages. This discussion is focused on programs developed for the distribution of Federal and State transportation funding administered by the FHWA and MDT. A description of each potential funding source and its applicability to corridor roadways is provided in the following sections.

9.1.1 National Highway System (NHS) Funds

Spokane Avenue and 2nd Street are part of the non-interstate National Highway System (NHS) in Montana. As such, the primary funding source for improvements to these streets is NHS Program funds. NHS funds are federally-apportioned to Montana and allocated based on system performance by the Montana Transportation Commission. Currently, the federal share for NHS projects is 86.58% and the State is responsible for the remaining 13.42% of project costs. The Highway State Special Revenue Account provides the source of the State's share of NHS project costs.

Activities eligible for this funding include construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of the NHS. Operational improvements and highway safety improvements are eligible for the use of NHS funds. Other miscellaneous activities that may qualify for NHS funding include research, planning, carpool projects, bikeways, and pedestrian walkways. The Montana Transportation Commission establishes priorities for the use of NHS funds and projects are let through a competitive bidding process.

Within the Missoula District, NHS routes consist of US 93, US 2, US 12, and Montana Highways 40 and 200. Based on historical funding allocations, the Missoula District may receive between \$600 million and \$800 million in NHS funds over the next 20 years.



Projects currently under development and prioritized by the Missoula District have construction costs estimated to range from \$800 million to \$850 million in current dollars.

The most notable project on the NHS in the Whitefish area is MDT's Whitefish West project that begins on 2nd Street just west of Baker Avenue and follows US 93 to west of Twin Bridges Road (Reference Post 133). This project is currently in the design stage and the most recent estimates place the total project cost at nearly \$38 million. Given the high cost of the project, MDT would likely split the project into several phases to better accommodate construction and anticipated funding. Funding for the project is unlikely before 2011; however, if money becomes available it could be moved ahead very quickly.

Although the Whitefish West section of US 93 is already in the design stage, it is not a certainty that those improvements would be built prior to work within the urban corridor. The timing of future construction on US 93 is dependent upon funding availability. For example, if right-of-way acquisition or other concerns delay work in the Whitefish West section, the District could change priorities and divert funding to work in the Whitefish Urban corridor.

9.1.2 Urban Highway System (STPU) Funds

The Federal and State funds available under this program are used to finance transportation projects on the state-designated Urban Highway System. The Urban Highway System is described under 60-2-125(6), Montana Codes Annotated (MCA), as those highways and streets that are in and near incorporated cities with populations of over 5,000 and within urban boundaries established by the MDT, that have been functionally classified as either urban arterials or collectors, and that have been selected by the Montana Transportation Commission, in cooperation with local government authorities, to be placed on the Urban Highway System.

State law (60-3-211, MCA) guides the allocation of funds to projects on the Urban Highway System in the fifteen urban areas (3 Urbanized Areas, and 12 Small Urban Areas) through a statutory formula based on each area's population compared to the total population in all urban areas. As with NHS funds, Urban funding is 86.58% Federal with a 13.42% non-federal match typically provided from the Special State Revenue Account.

Urban funds are used primarily for major street construction, reconstruction, and traffic operation projects on the State-designated Urban Highway System, but can also be used for any project that is eligible for the Surface Transportation Program (STP) under Title 23 of the U.S. Code. Priorities for the use of Urban funds are established at the local level through local planning processes with final approval by the Transportation Commission.

Within urban boundary for Whitefish, Baker Avenue between 2nd Street and 7th Street,



Baker Avenue north of 2nd Street, Wisconsin Avenue, East Lakeshore Drive, and a portion of Big Mountain Road are on the Urban Highway System.

Whitefish currently receives an allocation of about \$171,000 in Urban funds (Federal plus State matching funds) each year. MDT's Planning Division shows Whitefish's Federal Fiscal Year 2010 funding balance is about \$1,305,000.

9.1.3 Community Transportation Enhancement Program (CTEP)

Federal law requires that at least 10% of STP funds must be spent on transportation enhancement projects. The Montana Transportation Commission created the Community Transportation Enhancement Program (CTEP) in cooperation with the Montana Association of Counties (MACO) and the Montana League of Cities and Towns to comply with this Federal requirement.

CTEP is a unique program that distributes funding to local and tribal governments based on a population formula and provides project selection authority to local and tribal governments. The Transportation Commission provides final approval to CTEP projects within the State's right-of-way. The Federal share for CTEP projects is 86.58% and the Local and tribal governments are responsible for the remaining 13.42%.

CTEP projects must fit into one or more of 12 enhancement categories. Within the US 93 urban corridor, program funds could potentially be used to help pay for pedestrian and bicycle facilities, streetscape enhancements, landscaping, and other scenic beautification improvements.

Projects must be submitted by the local government to the MDT, even when the project has been developed by another organization or interest group. Project proposals must include evidence of public involvement in the identification and ranking of enhancement projects. Local governments are encouraged to use their planning boards, where they exist, for the facilitation of public participation or a special enhancement committee. The MDT staff reviews each project proposal for completeness and eligibility and submits them to the Transportation Commission and the FHWA for approval.

The City of Whitefish has a current balance of approximately \$266,300 and the estimated 2010 allocation is about \$29,500 (Federal). The balance represents funds not obligated towards a selected project.

9.1.4 On-System Bridge Replacement and Rehabilitation Program

The On-System Bridge Program receives 65% percent of the Federal Highway Bridge Replacement and Rehabilitation Program (HBRRP) funds. Projects eligible for funding under the On-System Bridge Program include all highway bridges on the State system. The bridges are eligible for rehabilitation or replacement. In addition, painting and

seismic retrofitting are also eligible under this program. MDT’s Bridge Bureau assigns a priority for replacement or rehabilitation of structurally deficient and functionally obsolete structures based upon sufficiency ratings assigned to each bridge. A structurally deficient bridge is eligible for rehabilitating or replacement; a functionally obsolete bridge is eligible only for rehabilitation; and a bridge rated as sufficient is not eligible for funding under this program.

The bridge over the Whitefish River on Baker Avenue – identified as structure M15120000+00101 according to MDT’s Bridge Management System – was built in 1977 and is not considered to be deficient based on its sufficiency rating. However, the existing structure has a roadway width of only 29 feet and poses a limitation for future widening at this location on Baker Avenue. The bridge falls within the portion of Baker Avenue included on the Urban Highway System but MDT’s Bridge Management System does not presently list this structure as an Urban System bridge.

9.1.5 Montana Air & Congestion Initiative (MACI) - Discretionary Program

The MACI - Discretionary Program provides funding for projects in areas designated non-attainment or recognized as being “high-risk” for becoming non-attainment. Since 1998, MDT has used MACI-Discretionary funds to address CO and PM-10 problems in non-attainment and high-risk communities across Montana. District Administrators and local governments nominate projects cooperatively. Projects are prioritized and selected based on air quality benefits and other factors. The most beneficial projects to address these pollutants have been sweepers and flushers, intersection improvements and signal synchronization projects.

While there is potential for the use of MACI funds to help implement some corridor improvements, such funding may not be viable for improvements like those recommended for 2nd Street since work would focus on intersection improvements. MACI project selection is typically focused on those most beneficial to address the pollutants in the area and intersection improvements usually have the benefit of lowering overall CO emissions. Because Whitefish is not a high-risk area for CO, it is unlikely MACI funds would be identified as a potential funding source for intersection improvements projects.

9.1.6 Urban Pavement Preservation

The Urban Pavement Preservation Program is a state program that addresses urban highway system preservation needs. The program is funded from federal Equity Bonus funds that are appropriated to each State to ensure that each State receives a specific share of the aggregate funding for major highway programs. The program funds cost-effective treatments for the preservation of the existing Urban Highway System to prevent deterioration while maintaining or improving the functional condition of the system without increasing structural capacity.

The Transportation Commission determines the annual funding level for this program for preservation projects in the fifteen urban areas. Activities eligible for this funding include pavement preservation treatments on the Urban Highway System based on needs identified through a locally developed and maintained pavement management system. Priorities are developed by MDT Districts based on the local pavement management system outputs and consideration of local government nominations with final approval by the Transportation Commission.

9.2 Potential Local Funding Sources

9.2.1 TIGER Discretionary Grant

The Transportation Investment Generating Economic Recovery (TIGER) grant program, funded through the American Recovery and Reinvestment Act of 2009 (ARRA), targets national and regional transportation projects that foster job creation, show strong economic benefits, and promote communities that are safer, cleaner and more livable. No direct local matching funds are required for the grants.

The City of Whitefish submitted an application and was awarded a \$3.5 million grant for improving 2nd Street between Spokane and Baker Avenues. The grant is intended for full reconstruction of the roadway, upgrades to sewer and water lines, installation of a new coordinated signal system, the addition of left turn lanes, streetscape enhancements, and modifications to parking along 2nd Street. The project supports the City's efforts to revitalize existing infrastructure and encourage long-term economic growth in downtown Whitefish.

9.2.2 State Fuel Tax Apportionment to the City of Whitefish

Under 15-70-101, MCA, Montana currently assesses a tax of \$0.27 per gallon on gasoline and diesel fuel used for transportation purposes. Each incorporated city and town receives a portion of the total tax funds allocated to cities and towns based on:

1. The ratio of the population within each city and town to the total population in all cities and towns in the State;
2. The ratio of the street mileage within each city and town to the total street mileage in all incorporated cities and towns in the State. The street mileage is exclusive of the Federal-Aid Interstate and Primary System.

All fuel tax funds allocated to the city governments must be used for the construction, reconstruction, maintenance, and repair of rural roads or city streets and alleys. The funds may also be used for the share that the city or county might otherwise expend for proportionate matching of Federal funds allocated for the construction of roads or streets on the Primary, Secondary, or Urban Systems. Priorities for these funds are established by the cities and counties receiving them.

Revenues are generated through State gasoline taxes apportioned by the State of Montana and allocations to local governments vary each year. Within incorporated areas, the allocation amount depends upon population and the miles of streets and alleys in the City. For State Fiscal Year 2010, the allocation of state fuel tax funds to the City of Whitefish was about \$156,000.

9.2.3 City of Whitefish General Fund

This fund provides revenue for most major city functions like the administration of local government, and the departments of public services, including police, fire, and parks. Revenues for the fund are generated through the general fund mill levy on real and personal property and motor vehicles; licenses and permits; state and federal intergovernmental revenues; intergovernmental fund transfers; and charges for services.

Minor transportation-related services are supported by this fund through the City of Whitefish Police Department. The Police Department is responsible for enforcing traffic laws on the street system.

9.2.4 Resort Tax Funds

The City of Whitefish is one of seven incorporated areas within Montana that collects “resort” taxes. Resort communities are incorporated towns with populations less than 5,500 that meet specific resort qualifications defined by the State. The fundamental idea behind resort taxes is to allow places that get a lot of tourism to pay for the wear-and-tear on local infrastructure.

In Whitefish, the resort tax amounts to a 2% percent tax on businesses such as restaurants, hotels and tourist-oriented retail stores. Resort tax revenue is also used as a major source of infrastructure funding in resort communities. The City of Whitefish earmarks 65% of annual resort tax revenue for street improvement projects, 25% goes to tax relief and the last 10% is divided between contributing businesses and local parks. During the fiscal year 2007, the City of Whitefish collected \$1.6 million from resort tax revenue. The resort tax program will continue through the year 2023.

It should be noted that the most recent information from the U.S. Bureau of the Census, estimates the population of the City of Whitefish to be nearly 8,300 residents. This population substantially exceeds the upper population threshold for resort communities of 5,500 established by State law.

The 2009 Legislature considered a bill to adjust the upper threshold population level requirement for resort communities. The Legislature did not change the upper population limit but revised the law to consider the population at the time of the most recent federal census instead of the federal population estimates produced annually. This means, the City of Whitefish has the authority to collect resort tax until the data from the 2010 census becomes available. Because the resort tax comprises an important

source of local funds, it is likely the 2011 Legislature will be asked to once again consider increasing the population threshold for resort communities.

9.2.5 Transportation Impact Fees

Impact fees are increasingly being considered as a potential method for financing transportation infrastructure needs. Presently, the only a handful of communities in the state utilize impact fees programs. However, other local governments in Montana including the City of Whitefish are in the process of considering and implementing impact fee programs. Developer exactions and fees allow growth to pay for itself. The developers of new properties should be required to provide at least a portion of the added transportation system capacity necessitated by their development, or to make some cash contribution to the agency responsible for implementing the needed system improvements.

Establishment of an equitable fee structure would be required to assess developers based upon the level of impact to the transportation system expected from each project. Such a fee structure could be based upon the number of additional vehicle trips generated, or upon a fundamental measure such as square footage of floor space. Once the mechanism is in place, all new development would be reviewed by the local government and fees assessed accordingly.

The City of Whitefish has adopted impact fees to help fund trails, the park maintenance facility, the emergency services building, city hall, water and sewer facilities, and storm water facilities. In the future, the City may expand the use of impact fees to help fund projects identified in its Transportation Plan.

9.2.6 Tax Increment Financing (TIF)

Tax Increment Financing (TIF) Increment financing has been used in many municipalities in Montana to generate revenue for public improvements projects. As improvements are made within the district, and as property values increase, the incremental increases in property tax revenue are earmarked for this fund. The fund is then used for improvements within the district. Expenditures of revenue generated by this method are subject to certain spending restrictions and must be spent within the district.

According to information from the City's Growth Policy, Whitefish established an urban renewal plan and tax increment district in 1987. Since that time, the TIF district has generated over \$12 million, and another \$9.9 million has been raised through urban renewal bonds in 2000, 2001, and 2004. Numerous infrastructure projects have been financed by the increment directly and through urban renewal bonds including numerous street projects including reconstruction of Baker Avenue. TIF monies have also been used to help improvements and new construction of recreational facilities in the community. It is possible that TIF funds could be used to help implement some of

the identified enhancements to the US 93 corridor.

Once all bond obligations are paid, the tax increment district in Whitefish is expected to sunset in 2020.

9.3 Regionally Significant Projects and Fiscal Constraint

The FHWA's planning guidance indicates that before the agency can issue an environmental approval for a **regionally significant project**, the proposed project or project phase (e.g., preliminary engineering, final design, right-of-way, utility relocation, or construction) must come from an approved, **financially constrained** Statewide Transportation Improvement Plan (STIP).

Regionally significant projects typically include projects on a facility which serves regional transportation needs and typically includes principal arterial highways like US 93. Regionally significant projects in areas outside of Metropolitan Planning Organization (MPO) boundaries (like Whitefish) include all projects on principal arterial highways that add capacity or significantly change the facility's operational characteristics.

FHWA's July 17, 2008 guidance (found in **Appendix B**) notes the most common types of highway improvements (pavement preservation, rehabilitation, reconstruction on or parallel to the existing alignment without adding lanes, safety improvements, and intersection modifications) are not regionally significant projects. FHWA and MDT will need to review the scope of any proposed changes to US 93 and determine if the proposed improvements meet the regionally significant definition.

Fiscal constraint has been a key component of federal transportation legislation since 1991. Fiscal constraint provisions are intended to focus on available financial resources and help States prioritize decisions so those projects for which funding is reasonable expected can be advanced. The term **financially constrained** means that projects can be implemented with current or proposed revenue sources without affecting the operation and maintenance of the transportation system as a whole.

Montana routinely develops a STIP showing priority transportation projects to be undertaken during the period covered by the plan (at least 3 years). MDT's District Offices and the Project Analysis Bureau have critical roles in managing the planning process and programming funds for individual projects included on the STIP. MDT must ensure that future improvements to the US 93 corridor are duly considered in the STIP and that adequate and viable revenue sources are available to implement a reconstruction project or individual phases of such a project.

9.4 Future NEPA/MEPA Compliance

Advancing either configuration would first require consulting with the FHWA to

discuss the need for and scope of a re-evaluation of the Final EIS as it relates to the Whitefish Urban project area. FHWA Technical Advisory T 6640.8A addresses re-evaluations and suggests that such actions include both consultation with FHWA and a written re-evaluation to determine the validity of the Final EIS and ROD for the Whitefish Urban project area.

Re-evaluations serve to insure compliance with all applicable Federal and State laws prior to the advancement of the project to the next major phase of project development (preliminary engineering, right-of-way acquisition, or construction). The re-evaluation process also provides the mechanisms whereby the status of commitments made by MDT during the project development process are identified and updated if necessary. Any new commitments or laws which may have come into effect since the approval of the original final environmental document are addressed in the re-evaluation. As a result, the environmental documentation for the project is made current with prevailing rules and regulations and any commitments resulting from the project development process or due to permit requirements.

The re-evaluation is the only instrument available to fully document compliance with Federal laws and any changes that may have occurred on a project since the approval of the original final environmental document. The extent and complexity of the re-evaluation is contingent upon the project's status at the time the reevaluation is prepared, changes to the affected environment since the approval of the original environmental document, and the purpose of the reevaluation (e.g., design change). Re-evaluations can be simple or lengthy and complex, citing and/or containing other resource materials or relevant information from design reports. The documents typically contain a finding indicating whether or not the changes which have occurred are considered major.

The FHWA Montana Division Office would consider the information provided in the re-evaluation and make a decision regarding the need for a Supplemental EIS. If the re-evaluation demonstrates that there are significant changes in impact status or document compliance, then some type of supplemental environmental documentation may be required. In this situation, MDT will coordinate with FHWA to determine the work effort and public involvement required to allow the project to progress.

FHWA's regulations 23 CFR §771.130) indicates that a Supplemental EIS is needed when the agency determines that:

- Changes to the proposed action would result in significant environmental impacts that were not evaluated in the EIS; or
- New information or circumstances relevant to environmental concerns and bearings on the proposed action or its impacts would result in significant environmental impacts not evaluated in the EIS.

A Supplemental EIS will not be necessary where:

- The changes to the proposed action, new information, or new circumstances result in a lessening of adverse environmental impacts evaluated in the EIS without causing other environmental impacts that are significant and were not evaluated in the EIS; or
- The FHWA decides to approve an alternative fully evaluated in an approved final EIS but not identified as the preferred alternative.

If it is determined that a Supplemental EIS is not necessary, the ROD as it relates to the Whitefish Urban project would need to be revised. FHWA's regulations addressing changes to the preferred alternative identified in the Final EIS and ROD, listed in 23 CFR 771.127(b), are shown below:

“If the Administration subsequently wishes to approve an alternative which was not identified as the preferred alternative but was fully evaluated in the final EIS, or proposes to make substantial changes to the mitigation measures or findings discussed in the ROD, a revised ROD shall be subject to review by those Administration offices which reviewed the final EIS under §771.125(c). To the extent practicable the approved revised ROD shall be provided to all persons, organizations, and agencies that received a copy of the final EIS pursuant to §771.125(g).”

This corridor study and its supporting documents will provide considerable information that can be directly considered in a re-evaluation of the Final EIS or for a Supplemental EIS if FHWA determines such a document is necessary. It is worth noting that MDT recently re-evaluated the Final EIS as it related to the Whitefish-West project. Based on the re-evaluation, it was determined a Supplemental EIS was not needed and the Whitefish West project has advanced to the design stage.

9.5 Next Steps

9.5.1 Complete the Environmental Review Process

MDT must complete an environmental review process to document NEPA/MEPA compliance before federal and state funding can be programmed for the corridor improvements and design activities can actually begin. As noted above, re-evaluation of the Final EIS as it relates to the Whitefish Urban project area must first be completed to determine whether a Supplemental EIS is necessary. Based on the findings of the re-evaluation, FHWA and MDT would need to make a decision about the appropriate environmental review process and ultimately revise the Record of Decision for the Whitefish Urban project area based on the outcome of the process.

The work of this study, together with the Whitefish Transportation Plan, should provide much of the information and analyses needed for the environmental review process.

However, existing cultural resource surveys, wetlands delineations, or noise evaluations would likely need to be updated or supplemented as part of the environmental review process.

9.5.2 Determine Long-range Funding Sources for Corridor Improvements

MDT, FHWA and the City of Whitefish will need to develop a long-range funding plan for corridor improvements that fully considers the federal, state and local requirements tied to the use of these funding sources. Committing federal funding to corridor improvements will require that projects be nominated and programmed by MDT through its STIP process. This programming covers a variety of project phases.

As noted earlier in this Part, Baker Avenue north of 7th Street is a state-designated Urban Route and eligible to receive Surface Transportation Program - Urban (STPU) funds. However, Baker Avenue south of 7th Street and 13th Street between Spokane and Baker Avenues are not on the state-designated Urban Highway System and are, therefore, not eligible for STPU funds. These roadways could be added to the Urban Highway System at the request of the local government. However, such additions require MDT's review and support for the proposed change and the Montana Transportation Commission must ultimately approve the request. It should be noted that any addition to the urban system would generally require removal of mileage from the existing urban system.

MDT and the City of Whitefish would need to develop cost sharing agreements to specify which entity would be responsible for funding the amenities included with corridor improvements.

9.5.3 Begin Design Activities for Corridor Improvements Projects

As soon as possible after completing the environmental review process and necessary programming decisions have been made, it is recommended that design activities be initiated on corridor improvements projects based on their identified priorities. These activities would include the surveys needed for design and the development of specific scopes of work for corridor projects and the development of traffic studies to provide current traffic counts, intersection turning movement counts, projected traffic volumes, and level of service and capacity information for the relevant intersections and corridor road segment.

Coordination would need to occur to ensure that designs incorporate any necessary or planned infrastructure work by the City and to identify amenities that would be part of the improvement projects. Design activities would also identify and facilitate necessary right-of-way acquisitions within each project area.