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February 23, 2024

Mr. Ryan Anderson, P.E., Commissioner  
Alaska Department of Transportation and Public Facilities  
P.O. Box 112500  
3132 Channel Drive  
Juneau, AK 99811

**Subject:** 2024-2027 Alaska Statewide Transportation Improvement Program (STIP)  
Tier 1 Corrective Actions

Dear Mr. Anderson:

We have received your letter dated February 22, 2024, that builds upon your e-mail request dated February 16, 2024. For ease in review we have provided responses in Attachment A, providing clarification where needed and noting where we are in agreement with your proposed action. We have appreciated the Department of Transportation and Public Facilities' (DOT&PF) efforts to engage with our Agencies to address the Tier 1 corrective actions.

Regarding Tier 1 Finding 1: MPO & Other Transportation Improvement Programs, we respectfully disagree with your perspective that these are new requirements. The requirements for a continuing, cooperative, and comprehensive (3-C) transportation planning process, including development of a Statewide Transportation Improvement Program (STIP) and a metropolitan Transportation Improvement Program (TIP) by the State DOT and the metropolitan planning organizations (MPO) are long-standing, starting with Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991. Under 23 CFR 450.326(a), MPOs, in cooperation with the State(s) and any affected public transportation operator(s), shall develop a TIP for the metropolitan planning area. The TIP shall reflect the investment priorities established in the current metropolitan transportation plan. The TIP shall include capital and non-capital projects surface transportation projects (or phases of projects) within the boundaries of the metropolitan planning area proposed for funding under 23 U.S.C and 49 U.S.C. Chapter 53. 23 CFR 450.330 requires that FHWA and FTA shall jointly find that each metropolitan TIP

is consistent with the metropolitan transportation plan. 23 CFR 450.328(b) requires that after approval of the TIP by the MPO and the Governor, the State shall include the TIP without change, directly or by reference, in the STIP. These requirements have not changed significantly since 1991. In addition, interpretation of the requirements has been consistent for decades.

Based on our review of your e-mail dated February 16, 2024, and your follow-up letter dated February 22, 2024, we have provided responses to your questions and proposed actions. It is important to note that the Corrective Actions in our letter dated February 12, 2024, remain unchanged, except for moving 3 projects to Tier 3. Based on the engagement between our Agencies through your requests, we feel that progress is being made and look forward to continuing to work with the DOT&PF.

Sincerely,

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Sandra A. Garcia-Aline  
Division Administrator  
Federal Highway Administration

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Susan Fletcher, P.E.  
Regional Administrator  
Federal Transit Administration

Attachments:

Attachment A: Responses to DOT&PF Tier 1 Proposed Actions

Electronically cc:

Katherine Keith, Deputy Commissioner, DOT&PF  
James Marks, Director, Project Delivery, DOT&PF  
Dom Pannone, Director, Program Management and Administration, DOT&PF

## Attachment A

### FHWA and FTA Responses to DOT&PF

*(DOT&PF language is included for clarification and is unchanged)*

#### **Tier 1, Finding 1: MPO and other Transportation Improvement Programs**

As you are aware, this is a new requirement for Alaska's STIP. DOT&PF is currently inquiring to our sister states to determine whether this heightened authority for MPOs to review, limit, or reject proposed projects by sovereign entities (State, Federal, or Tribal) is required in any other jurisdiction. In compliance with the Tier 1 corrective action DOT&PF continues to offer that it will uniformly remove Appendix A projects from its STIP that are within an MPO boundary.

It is important to note that one NHS/Interstate project identified in Appendix A, Table A to be removed for being within an MPO boundary, the Seward Highway Milepost 98.5-115.3 Reconstruction project (ID 34164), is not located within the AMATS MPO boundary. The project termini has been adjusted to remove the MPO conflict, and ensure the project can move forward unimpeded. It is also important to note that the entire project was included in approved STIP Amendment #8, is currently included as part of the AMATS 2050 MTP update that is pending approval, and is included in the currently approved AMATS TIP. Being completely outside the MPO boundary with a modified terminus, we intend to include the project in the 2024-2027 STIP.

#### **FHWA/FTA Response:**

Removal of all projects in Appendix A will satisfy the corrective action. Please refer to the list of projects identified in Appendix A.

For clarification on the Seward Highway Project #34164: One project cannot be in both the MPO TIP and the State's STIP. If a project is located in the MPO Planning Area (MPA) or partially located in the MPA, the project belongs in the MPO TIP. In the case of Project #34164, it is already in the MPO TIP. Therefore, it must be removed from the STIP as the TIP is already included by reference.

#### **Tier 1, Finding 3: Fiscal Constraint**

Thank you for your 2/20/2024 clarification.

In addition to providing the 2020-2023 Operating Budgets, the department intends to provide narrative and information explaining how maintenance and operational needs are defined and determined, the measures and targets associated with those needs, and a history of meeting those needs. Much of this information is included in Appendix C already. DOT&PF can also supply a narrative of the process by which needs are funded and an outline of how we balance capital investments with maintenance costs. We believe that this documentation and analysis addresses your 2/20/2024 request for us to "explain how the DOT&PF determine the operating or maintenance needs throughout the state to operate and maintain the existing transportation system."

#### **FHWA/FTA Response:**

This proposed approach appears to meet requirements to resolve the Corrective Action. No other action is needed as described in the following paragraphs.

We seek clarification on a slight change in the phrasing your 2/20/2024 correspondence that could be read to create additional conditions for resubmittal of the STIP. The Federal Planning Finding (FPF), transmitted on 2/12/2024 states, "If there is a deficit in meeting operations and maintenance needs, the STIP must explain how that deficit impacts the transportation system and/or how the State/locals will fund the financial deficit." FHWA's 2/20/2024 clarifying letter states, "In addition, in the event that the operation and maintenance needs exceed the anticipated operating budget for the transportation system, an explanation of how the State manages existing assets and prioritizes and addresses the operation and maintenance of the existing transportation system."

DOT&PF does not project a "deficit in meeting operations and maintenance needs", as phrased in the FPF, and therefore the STIP's Appendix C did not include an analysis of deficit funding scenarios and DOT&PF has not currently prepared an explanation of how facilities would be maintained without sufficient funding. However, language in the 2/20/2024 correspondence, specifically the phrase "in the event that...", may be read to require DOT&PF to create and analyze a hypothetical condition that has never been true in the past. In your correspondence dated February 20, 2024, if you're suggesting we consider another condition to explore a hypothetical scenario, we ask for clearer guidelines on the hypothetical situation you'd like us to review.

Our review of records and our institutional knowledge have produced no notices from FHWA for failure to meet the highway maintenance requirements of 23 USC 116 and 23 CFR 1.27, so we have no concrete set of facts by which to examine the additional analysis that may be proposed in your 2/20/2024 response.

#### ***Attachment A***

##### **ID: 33824 Alaska Highway Milepost 1380 Johnson River Bridge Replacement**

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**FHWA Comment:** NHFP funding identified but is not included in the Freight Investment Plan. Ineligible for NHFP funding.

**DOT&PF Response:** This project is included in the Alaska Moves 2050 Statewide Freight Plan approved by the FHWA on January 24, 2023, as an illustrative project. It is listed as eligible for NHFP in Appendix J – Freight Investment Plan, under illustrative listing in projects. It is listed under Robertson, Gerstle, and Johnson River Bridge Replacements (Alaska Highway).

**DOT&PF Proposed Action:** Keep project in the 2024-2027 STIP utilizing NHFP funding unless it's status as illustrative in the freight plan prohibits its use. If use is prohibited, allocate additional NHFP funding to the project.

##### **FHWA/FTA Response:**

Illustrative projects are not part of the approved Freight Investment Plan. Remove the project from the STIP or change the funding category as proposed.

##### **ID: 11439 Anton Anderson Memorial (Whittier) Tunnel Maintenance and Operations**

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**FHWA Comments:** "Operations" should be removed as it and routine maintenance were deemed ineligible for federal-aid funding. NHFP funding identified but is not included in the Freight Investment Plan. Ineligible for NHFP funding.

**DOT&PF Response:** 23 USC 218 allows for federal assistance in "operations" of the Alaska Marine Highway, including "necessary roads" at 100% federal share. In a November 16, 2023, letter the FHWA acknowledged the Anton Anderson Memorial Tunnel was an intermodal connector and a necessary road eligible under 23 USC 218, indicating increased eligibility and federal share once the 1997 Toll Agreement is amended. That amendment and new agreement is intended to be complete summer of 2024.

In addition, this project is included in the Alaska Moves 2050 Statewide Freight Plan approved by the FHWA on January 24, 2023, as an illustrative project. It is listed as eligible for NHFP in Appendix J – Freight Investment Plan, under illustrative listing of projects.

**DOT&PF Proposed Action:** Keep project in the 2024-2027 STIP utilizing NHFP funding with original title and descriptions unless it's status as illustrative in the freight plan prohibits its inclusion. If use is prohibited, allocate additional NHFP funding to the project.

**FHWA/FTA Response:**

Illustrative projects are not part of the approved Freight Investment Plan. Remove the project from the STIP or change the funding category as proposed.

**ID: 33974 Cascade Point Ferry Terminal**

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**FHWA Comment:** No ferry facility here/not part of any transportation network. Project is ineligible for federal- aid funding.

**DOT&PF Response:** This project site is located at approximate mile 42 of the Glacier Highway, North of Juneau, Alaska with direct access to the Glacier Highway. Cascade Point is a land feature with suitable terrain and water conditions to construct a new ferry terminal to promote improved multimodal connections between Juneau, Skagway, and Haines. The project is currently under design utilizing state funding sources, with the intent to pursue a public private partnership in the construction of a new ferry terminal facility, with construction completion in late 2025.

DOT&PF references Memorandum "Implementation Guidance for the Ferry Boat Program (FBP) as Revised by the Bipartisan Infrastructure Law" dated 4/21/23. Specifically, Section G.9.d. (page 12): "Ferry boat or ferry terminal lease". "When a public entity leases a ferry boat or terminal facility from a private entity, both the capital and operation (See 23 U.S.C. 147(k)) portion of the cost of leasing the ferry boat will be eligible for reimbursement under the FBP." Furthermore, Section F.5.c "Eligible activities include: The capital and operation (see 23 U.S.C. 147(k)) portion of the cost of leasing a vessel or facility."

**DOT&PF Proposed Action:** Revise the lease payment schedule to reflect the late 2025 completion date. The first lease payments will be shown in FFY 2026.

**FHWA/FTA Response:**

Proposed action appears to resolve corrective action.

**ID: 10765 Egan Yandukin Intersection Improvements**

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**FHWA Comment:** Project is not in HSIP implementation plan. Ineligible for safety funding.

**DOT&PF Response:** DOT&PF is anticipating this project will be included in the 2024 Highway Safety Improvement Plan funding plan. The funding allocation was to show the State's intent.

**DOT&PF Proposed Action:** Change the funding type to NHPP.

**FHWA/FTA Response:**

Proposed action appears to resolve corrective action.

**ID: 34205 Ferry Boat Funds as Toll Credits**

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**FHWA Comment:** Toll credits do not come from a federal funding source. Any use of toll credits should be noted on the individual projects they are programmed to be used on. Toll credits have been requested and are being reviewed for approval by FHWA.

**DOT&PF Response:** The intent of creating a STIP ID for this item was to show the State's intent to preserve the use of toll credits for reasonably anticipated FTA Rural Passenger Ferry Service Funding in 2026 and 2027.

**DOT&PF Proposed Action:** DOT&PF will update formatting of projects leveraging toll credits to ensure clarity. We have reviewed Washington State DOT's model of leveraging toll credits in their STIP.

**FHWA/FTA Response:**

Proposed action appears to resolve corrective action.

**ID: 34299 Guardrail Improvements**

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**FHWA Comment:** Project is not in HSIP Implementation Plan and ineligible for safety funding. Ineligible for PROTECT funding.

**DOT&PF Response:** Thank you for the clarification.

**DOT&PF Proposed Action:** Change funding types to NHPP and STBG

**FHWA/FTA Response:**

Proposed action appears to resolve corrective action.

**ID: 26120 King Cove to Cold Bay Road**

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**FHWA Comment:** No CDS/earmark funds have been allocated to this project. No funding is identified.

**DOT&PF Response:** This project had utilized dedicated earmark funds (AK102) in the past which are expended. An SEIS is currently underway with the Fish and Wildlife Service to consider the effects of a land exchange to develop a road corridor. State funds are currently being utilized on this project. We considered the project regionally significant.

**DOT&PF Proposed Action:** Project will be considered for inclusion as illustrative.

**FHWA/FTA Response:**

State-funded regionally significant projects are required to be programmed in the STIP. Include and identify the accurate funding sources.

**ID: 31310 Klondike Highway Rehabilitation: Skagway River Bridge to Canadian Border**

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**FHWA Comment:** Project not in Freight Investment Plan. Not eligible for NHFP funding.

**DOT&PF Response:** This project is included in the Alaska Moves 2050 Statewide Freight Plan as illustrative approved by the FHWA on January 24, 2023, although not specifically marked as eligible for NHFP funding.

**DOT&PF Proposed Action:** NHFP funding will be removed from the project and replaced with NHPP, unless it's inclusion in the freight plan allows for eligibility.

**FHWA/FTA Response:**

Illustrative projects are not part of the approved Freight Investment Plan. Remove the project from the STIP or change the funding category as proposed.

**ID: 32218 Prince William Sound Area Transportation Plan Update**

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**FHWA Comment:** Effort is funded in AWP.

**DOT&PF Response:** While this activity does have regional significance, we understand it is not necessary due to the funding use on the project and will be removed.

**DOT&PF Proposed Action:** These activities will be removed from the STIP, and efforts will be conducted under the AWP, unless a determination is made that these activities are eligible as a separate STIP project.

**FHWA/FTA Response:**

Proposed action appears to resolve corrective action.

**ID: 33248 Shishmaref Sanitation Road Erosion Control**

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**FHWA Comments:** No CDS/earmark funds have been allocated to this project. Unclear where ER funding is coming from (no ER funds for this).

**DOT&PF Response:** DOT&PF is proposing to utilize eligible earmark funds (Shishmaref Relocation Road 2007). STBG funds, and State and local match. ER funds will not be utilized.

**DOT&PF Proposed Action:** Include with funding types clarified.

**FHWA/FTA Response:**

We could not confirm the existence of the "Shishmaref Relocation Road 2007" as a Congressionally Directed Spending project. Document the earmark title and other funding sources associated with this project.

**ID: 33801 Southeast Alaska Transportation Plan**

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**FHWA Comments:** Effort is funded in AWP.

**DOT&PF Response:** While this activity does have regional significance, we understand it is not necessary due to the funding use on the project and will be removed.

**DOT&PF Proposed Action:** These activities will be removed from the STIP, and efforts will be considered under the AWP.

**FHWA/FTA Response:**

Proposed action appears to resolve corrective action.

**ID: 33721 Statewide Transportation Improvement Program Management Software and Support**

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**FHWA Comments:** Effort is funded in AWP.

**DOT&PF Response:** Planning activities outside the AWP have been allowable STIP projects in the past.

**DOT&PF Proposed Action:** These activities will be removed from the STIP, and efforts will be considered under the AWP.

**FHWA/FTA Response:**

Proposed action appears to resolve corrective action.

**ID: 33098 Statewide Functional Class Update**

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**FHWA Comments:** Effort is funded in AWP.

**DOT&PF Response:** Planning activities outside the AWP have been allowable STIP projects in the past.

**DOT&PF Proposed Action:** These activities will be removed from the STIP, and efforts will be considered under the AWP.

**FHWA/FTA Response:**

Proposed action appears to resolve corrective action.

**ID: 34206 West Susitna Access Road**

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**FHWA Comments:** No bridge work identified in scope. Not eligible for BFP.

**DOT&PF Response:** The scope of the West Susitna Access project in the 2024-2027 STIP is: "Construct a new road connecting the contiguous highway system to State recreation lands west of the Susitna River. Construct a boat launch facility accessing the Susitna River." This scope implied bridge construction by stating accessing recreations lands west of the Susitna River (which requires a bridge).

**DOT&PF Proposed Action:** Scope will be revised to include bridge construction in detail.

**FHWA/FTA Response:**

Proposed action appears to resolve corrective action.

**ID: 25836 AASHTO Technical Programs Support**

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**FHWA Comments:** Unclear this project is eligible for funding. Past funding has all been research.

**DOT&PF Response:** While the funding type in the 2020-2023 STIP was Statewide Planning and Research, the scope of this program will be focused on technical support from AASHTO across all transportation disciplines. DOT&PF prefers to preserve RD&T2 funds for focused innovation efforts.

**DOT&PF Proposed Action:** Maintain the existing funding sources as can be applied to eligible activities.

**FHWA/FTA Response:**

Project description is identical to the current STIP description. Any changes to project descriptions must be included.

**ID: ACC Advance Construction Conversion**

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**FHWA Comment:** Conversion of AC'd funds needs to be identified on each project with the source of the converted funds identified and programmed.

**DOT&PF Response:** The one-pager of Advance Conversation Construction does show the programming of fund sources to see the total repayment of the AC balance by fund type and year. We understand the formatting change request by FHWA. While DOT&PF's preference is showing Advance Conversation repayments on a ledger to show the AC balance by fund type and year, we will reformat as requested.

**DOT&PF Proposed Action:** Reformat as requested.

**FHWA/FTA Response:**

Proposed action appears to resolve corrective action.

**ID: 6447 Bridge and Tunnel Inventory, Inspection, Monitoring, Preservation, Rehab, and Replacement Program**

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**FHWA Comment:** Monitoring/Inspection work is ineligible for Bridge Formula Program (BFP) funding.

**DOT&PF Response:** This program includes preservation, rehabilitation, and replacement activities. Individual child projects will identify specific funding types based on eligibility determinations and allowed groupings.

**DOT&PF Proposed Action:** Continue program as stated.

**FHWA/FTA Response:**

The project description provided is not eligible for Bridge Formula Program. Please remove Bridge Formula Program funds from this project to resolve eligibility issue.

**ID: 6454 Bridge Management System FHWA**

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**Comments:** Work is ineligible for BFP.

**DOT&PF Response:** Thank you for the clarification.

**DOT&PF Proposed Action:** BFP funding will be removed from eligible fund types.

**FHWA/FTA Response:**

Proposed action appears to resolve corrective action.

**ID: 12579 Bridge Scour Monitoring and Retrofit Program FHWA**

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**Comments:** Monitoring is not eligible for BFP.

**DOT&PF Response:** Thank you for the clarification.

**DOT&PF Proposed Action:** BFP funding will be removed from eligible fund types.

**FHWA/FTA Response:**

Proposed action appears to resolve corrective action.

**ID: 13239 Culvert Repair and Replacement**

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**FHWA Comments:** Unclear how bridge funding can be used if culverts are not identified and may not meet bridge requirements.

**DOT&PF Response:** This is proposed to be a program that will identify culverts that may or may not meet bridge requirements for repair and replacement for maximum flexibility. Individual child projects will identify specific funding types based on bridge requirement determinations.

**DOT&PF Proposed Action:** Continue program utilizing both STBG and bridge funding.

**FHWA/FTA Response:**

This project will move to Tier 3 – As projects are submitted for authorization, each project must be eligible for the funding source identified.

**ID: 34320 Ferry Service for Rural Communities Operating Assistance**

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**FHWA Comments:** No description supports this Need ID.

**DOT&PF Response:** This STIP project ensures basic essential ferry service is provided to rural areas and provides federal operating assistance to the Alaska Marine Highway System.

Section 71103 of the Infrastructure Investment and Jobs Act (the “Bipartisan Infrastructure Law” or “BIL”) (Pub. L. 117–58) authorizes FTA to award grants for the Rural Ferry Program through a competitive process. The Rural Ferry Program provides funding for capital, operating, and planning expenses to States and territories for ferry service to rural areas. Projects funded under this program will support ferry transportation service that operated a regular schedule at any time during the five-year period from March 1, 2015, to March 1, 2020, and includes at least one route segment of at least 50 sailing (nautical) miles between two rural areas.

The Alaska DOT&PF Analyzed 197 ferry operators and the communities served to determine that Alaska is the only qualifying system in the country, and it is reasonable that these funds would be an award. Further, this Need ID shall allow substitution, if necessary, of Title 23 funds under section 218, as modified by subsection (c), 2021 Public Law 117–58, §71103(g)(2), whereas "operation" and "repair," were inserted after "purchase,".

**DOT&PF Proposed Action:** Update the description with acceptable language describing the intent.

**FHWA/FTA Response:**

Proposed action appears to resolve corrective action.

**ID: 34258 Frontier Roads, Trails, and Bridges Program**

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**FHWA Comments:** Unclear if it is eligible for identified funding sources.

**DOT&PF Response:** STBG funding has been successfully utilized for ice and snow road funding in the past, as well as for river crossing structures. Ice and snow road activities are called out specifically as eligible activities in the IIJA law.

**DOT&PF Proposed Action:** Keep program in the 2024-2027 STIP. Projects will be broken out as able in 2024 and 2025 with programmatic funding kept in 2026-2027 until child projects are identified and scopes detailed.

**FHWA/FTA Response:**

This project will move to Tier 3 – Based on program eligibility, please clarify eligible activities for PROTECT and Bridge Formula Program funds for this project to remain eligible for funding.

**ID: 343130 State-owned Shipyard Repairs**

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**FHWA Comments:** Shipyards are not part of a transportation facility. Unclear how it is eligible for federal-aid funding.

**DOT&PF Response:** IIJA, Section 11117. Toll Roads, Bridges, Tunnels, and Ferries states “Section 129(c) of title 23, United States Code, is amended in the matter preceding paragraph (1) by striking “the construction of ferry boats and ferry terminal facilities, whether toll or free,” and inserting “the construction of ferry boats and ferry terminal facilities (including ferry maintenance facilities,) whether toll or free, and the procurement of transit vehicles used exclusively as an integral part of an intermodal ferry trip.” Our interpretation of the law is that State owned shipyard repairs associated with ferry maintenance facilities are eligible.

Furthermore, Memorandum “Implementation Guidance for the Ferry Boat Program (FBP) as Revised by the Bipartisan Infrastructure Law” dated 4/21/23 Section E.5 (page 12) defines Terminal Facility as “A ferry terminal facility includes the structures and amenities that directly serve the ferry boat operation. These include passenger parking, ticketing, waiting area, boarding and disembarking facilities, docks, slips, dolphins and shore improvements necessary for docking, administrative space specifically for on-site ferry administration and vessel crew, and ferry vessel maintenance facilities.”

**DOT&PF Proposed Action:** Keep as stated in the 2024-2027 STIP. Update descriptions.

**FHWA/FTA Response:**

This project will move to Tier 3 – Based on the response, it remains unclear whether the project is eligible for Ferry Boat Program funding.