The MPO's Risk Associated with the Des Moines Transload Facility:

1. The maximum amount of financial risk that the MPO is exposed to is $12.9 million
    a. $11.2 million – BUILD grant (Federal) and,
    b. $1.7 million – RRLG loan (State).

2. The MPO would be at risk of paying back that amount or some portion of that amount under the following scenarios:
    a. The project is not completed,
    b. Operator defaults on RRLG loan or,
    c. The project is completed but not operated for the required 20 years (BUILD Grant Agreement).

3. The MPO has done several things to mitigate the risk to the MPO, including:
    a. Entered into a sub-agreement with Des Moines Industrial (DSMI) on October 7, 2019, which passes all the requirements of the RRLG loan from the Iowa DOT on to DSMI, the developer/operator of the facility.
        i. Entered into an agreement with the City of Des Moines which does the following:
            1. City of Des Moines agrees to pay back RRLG loan in case of default at a maximum amount of $170,000 per year for 10 years.
            2. MPO agrees to backfill the City of Des Moines with re-captured STBG funds as agreed to by the MPO Policy Committee on May 17, 2018.
            3. *Allocating re-captured STBG funds will not impact projects that are part of the regular STBG funding cycle.*
    b. Entered into a sub-agreement with DSMI on September 9, 2020, which passes all the Federal Railroad Administration requirements on to DSMI, the developer/operator of the facility.
        i. Passes all Federal requirements under the BUILD Grant Agreement on to DSMI and obligates them to meet these requirements, including:
            1. Federal requirements as part of the construction phase and,
            2. Maintaining and operating the facility for the required 20-year period.
    c. Worked with DSMI to acquire a performance bond through Ryan Companies, the general contractor overseeing the construction of the facility.
        i. Performance bond in the amount of $20,748,000 for the construction portion of the project.
        ii. Ensures that project can be completed in case of default by DMSI.
        iii. Performance bond- MPO legal counsel has reviewed the bond and deemed it satisfactory

4. If DSMI is unable to complete the construction of the project, the following would happen:
    a. Lincoln Savings Bank would step into the role previously held by DSMI.
    b. The performance bond would kick in to allow for the completion of the project.
    c. Lincoln Savings Bank would sell the facility to a new operator and use proceeds to recoup the loan to DSMI.
    d. New operator would be responsible for maintaining/operating the facility per federal requirements.
    e. As long as facility is maintained and operated for the 20-year period, the MPO is not liable for the $11.2 million BUILD grant or the $1.7 million RRLG loan.

5. Additionally, the MPO staff/legal counsel is discussing a possible arrangement with Lincoln Savings Bank where the bank would partner with the MPO to select a new operator if the need should arise.
    a. This would ensure the MPO's continued involvement in the project if DSMI is unable to complete the project

While there is always some risk involved in a project of this scale, the outlined steps have been made to mitigate the risk to the MPO to the maximum extent possible.

NOTE:

All the statements provided have been discussed and reviewed in consultation with MPO legal counsel.