



# City of Grand Island

Tuesday, May 14, 2013

Council Session

## Item G-16

**#2013-139 - Approving Program Supplemental Agreement No. 2  
with the State of Nebraska Department of Roads for the US  
Highway 30 Drainage Improvement Project**

Staff Contact: John Collins, P.E. - Public Works Director

# **Council Agenda Memo**

**From:** Scott Griepentstroh, Project Manager

**Meeting:** May 14, 2013

**Subject:** Approving Program Supplemental Agreement No. 2 with the State of Nebraska Department of Roads for capping future obligations for the US Highway 30 Drainage Improvement Project

**Item #'s:** G-16

**Presenter(s):** John Collins, Public Works Director

## **Background**

The Moving Ahead for Progress in the 21st Century Act (MAP-21) is a funding and authorization bill to govern United States federal surface transportation spending. Signed into law on July 6, 2012, the \$105 billion, two year bill will not significantly alter total funding authorized under the previous transportation bill, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Key provisions under MAP-21 include consolidation of the 90 highway and transit programs into 30, reformation of the environmental review process for project development, reduction of funding for bicycle and pedestrian transportation, and development of a national freight policy. Over 90% of the highway program funding under MAP-21 is distributed by formula and is under the control of the state departments of transportation.

Under MAP-21, the funding level for projects on the National Highway System (NHS) – a 220,000-mile network of Interstates and major roadways – increased from \$18.7 Billion to \$21.8 Billion. Projects formerly funded by the Transportation Enhancement Program (Hike/Bike Trails, Historical Lighting) and the Safe Routes to Schools Program have been consolidated under the Transportation Alternatives Program, with total funding reduced from \$1.1 Billion to \$0.8 Billion. The Highway Safety Improvement Program, which has the major focus of improving safety for all road users, increased its funding level from \$1.7 Billion to \$2.4 Billion.

The Surface Transportation Program (STP) is the federal-aid highway program with the broadest eligibility criteria, and has been typically used by Local Public Agencies to fund roadway and bridge improvements. Under MAP-21, the funding level increased from \$9.0 Billion to \$10.0 Billion, but the program was broadened to incorporate numerous programs and added responsibilities. The formulas for distribution of the funds to States

and Local Public Agencies were also altered to provide more funding for projects on the National Highway System.

In Nebraska, the annual amount of STP funds allocated to First Class Cities (cities with populations between 5000 and 200,000) was reduced from \$11.6 Million to \$7.4 Million for Federal Fiscal Years (FFY) 2013 and 2014. Additionally, the scope and cost for several projects programmed to receive STP funding in FFY2013 and FFY2014 increased significantly. The estimate for STP projects for First Class Cities currently totals \$35 Million, representing a shortfall during the two year period of approximately \$21 Million. Without an alternative source of funds, projects currently programmed would either have to be withdrawn or have their federal funding share dramatically reduced.

The Grand Island STP projects currently planned to be obligated in FFY2013 and FFY2014 are the US-30 Drainage Improvement Project, the Various Locations in Grand Island (Resurfacing) Project, and the Capital Avenue – Webb Road to Broadwell Avenue Project.

## **Discussion**

In January and March of 2013, meetings between the Nebraska Department of Roads (NDOR) officials and representatives of the 26 First Class Cities were conducted to discuss alternatives to address the \$21 Million shortfall. One option that was considered in January was to address the shortfall by delaying the Federal Fund Purchase Program – this program replaces the distribution of STP funds to First Class Cities with annual payments of State Cash. This option was rejected by consensus of those representing the First Class Cities.

On March 29, 2013, NDOR officials proposed that anticipated additional funds from the “August Redistribution” be directed to address the shortfall. August Redistribution funds are federal highway funds that would be unspent due to unsuccessful delivery of programmed projects unless they were redistributed to other states. Typically, NDOR receives \$10 Million annually from the August Redistribution because all NDOR Federal Aid projects go to contract in the Fiscal Year they are programmed, and NDOR prepares other “shelf ready” projects in anticipation of receiving the additional funds.

To show their commitment to delivering all Local Public Agency federal aid projects, NDOR will use the August Redistribution funds in FFY2013 and FFY2014 to provide for full federal participation for all First Class City STP projects that are currently programmed. In addition, NDOR anticipates payouts for the Federal Fund Purchase Program to begin in March of 2016 as originally scheduled. In exchange, individual projects are to be capped at their current estimate.

The purpose of this supplemental agreement is to apply the maximum total dollar amount (cap) of future obligations or obligation adjustments of Federal-Aid Funds for the US-30 Drainage Improvement Project, as directed by NDOR.

The current total estimated cost for the US-30 Drainage Improvement Project is \$1,495,319. The amount of Federal STP funds obligated to date is \$193,967. The program supplemental agreement caps the amount for future obligations at \$817,528.

The Letting Date for the US-30 Drainage Improvement Project is May 23, 2013. Construction is tentatively planned to begin in July.

### **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

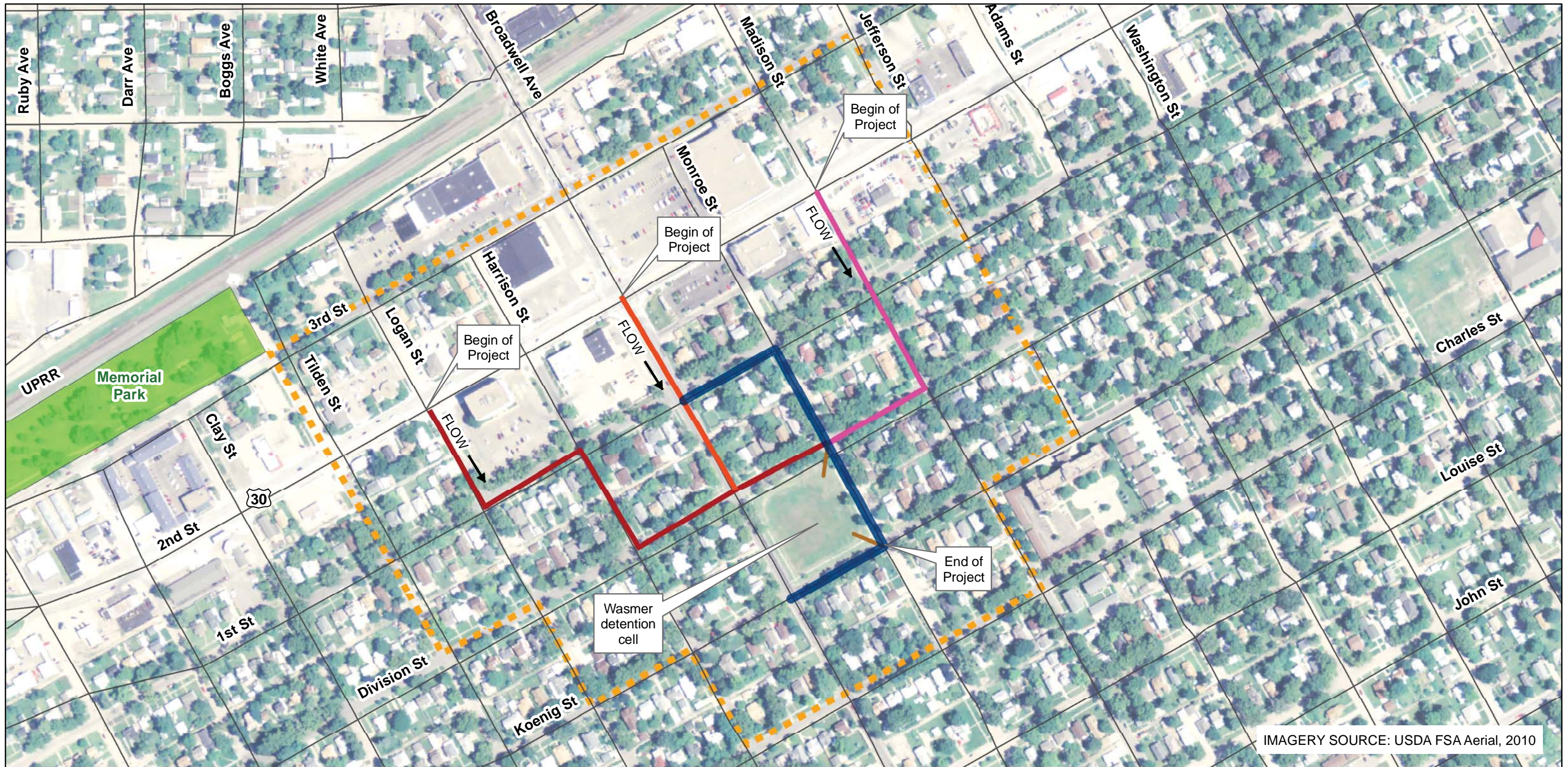
### **Recommendation**

City Administration recommends that the Council approve Supplemental Agreement No. 2 to the Agreement with the Nebraska Department of Roads for the US-30 Drainage Improvement Project.

### **Sample Motion**

Move to approve Supplemental Agreement No. 2.





IMAGERY SOURCE: USDA FSA Aerial, 2010



1 inch = 300 feet

**Legend**

**Storm Sewer Segments**

- Logan St Segment
- Broadwell Ave Segment
- Madison St Segment
- Inlet/Outlet Pipe



Study Area



Parks



Detour

**PROJECT VICINITY MAP**



*US-30 Drainage Improvements  
Grand Island, Hall County, Nebraska  
Project No: URB-30-4(158), CN 40352A*



## **SUPPLEMENTAL AGREEMENT NO. 2**

### **PROJECT PROGRAM**

CITY OF GRAND ISLAND, NEBRASKA  
STATE OF NEBRASKA DEPARTMENT OF ROADS  
PROJECT NO. URB-30-4(158)  
CONTROL NO. 40352A  
U.S.-30 DRAINAGE IMPROVEMENT

THIS SUPPLEMENTAL AGREEMENT, made and entered into by and between the City of Grand Island, Nebraska, hereinafter referred to as the Local Public Agency or "LPA", and the State of Nebraska, Department of Roads, hereinafter referred to as the "State", and hereinafter collectively referred to as the "Parties".

WITNESSETH:

WHEREAS, the LPA and the State have previously entered into a Program Agreement for an LPA Federal-aid Transportation Project, Agreement No. BL1190, executed by the LPA on April 12, 2011 and executed by the State on April 21, 2011, hereinafter referred to as the "Original Agreement", and a supplemental agreement executed by the LPA on November 13, 2012 and executed by the State on November 29, 2012, hereinafter referred to as "Supplement Agreement No. 1", and

WHEREAS, the Parties agreed that the project would use Federal-aid STP Funds up to a maximum of 80 percent of the participating and eligible costs of the Preliminary Engineering and the Right of Way Phases of LPA's project, a maximum of 62 percent of the participating and eligible costs of the Construction Phase of LPA's project, and

WHEREAS, under MAP-21, passed by Congress, there is a reduction in the total dollar amount of Federal-aid Funds available for the local Federal-aid projects specified on the list attached to the Federal Funds Purchase Program Agreements (FFPP), on which LPA's project was included, and

WHEREAS, the total cost of the projects in the FFPP list of projects also has increased because of cost estimate increases and scope changes,

WHEREAS, there will not be sufficient Federal-aid STP Funds available to cover the total cost of all projects on the FFPP list of projects, and

WHEREAS, the Parties have therefore agreed to cap the future Federal funding obligation for each of the projects on the FFPP list of projects, and

WHEREAS, the Parties wish to supplement the Program Agreement to provide a cap for future Federal-aid obligations on LPA's project, and

WHEREAS, it is the desire of the LPA that this project be constructed under the designation of Project No. URB-30-4(158), as evidenced by the Resolution of the LPA dated the \_\_\_\_\_ day of \_\_\_\_\_, 2013, attached and identified as Exhibit “A” and made a part of this agreement, and

NOW THEREFORE, in consideration of these facts, the LPA and State hereto agree as follows:

SECTION 1. This agreement supplements only that part of the Program Agreement that provides that the Federal share of the LPA's project costs will be a maximum of 80% of participating and eligible costs of the Preliminary Engineering and the Right of Way Phases of LPA's project and a maximum of 62 percent of the participating and eligible costs of the Construction Phase of LPA's project. For previous obligations, the Federal share will continue to be 80 percent of the eligible and participating costs of the Preliminary Engineering and the Right of Way Phases and 62 percent of the participating and eligible costs of the Construction Phase. Effective immediately, a maximum total dollar amount (cap) shall apply to all future obligations or obligation adjustments of Federal-aid Funds for this project. The maximum dollar amount of future obligations for this project will be \$817,528. Therefore, the Federal-aid share for future obligations will be a maximum of 62 percent of participating and eligible project costs, up to this maximum dollar amount.

The LPA remains responsible for their 20 percent local share of all project costs in the Preliminary Engineering and the Right of Way Phases, 38 percent of all project costs in the Construction Phase, and shall be responsible for 100 percent of all costs of the project in excess of the Federal-aid maximum total dollar amount.

SECTION 2. The LPA and the State agree that, except for the provisions of Section 1 above, all terms and provisions of the Original Agreement on Project No. URB-30-4(158) executed by the LPA on November 13, 2012 and executed by the State on November 29, 2012 and Supplemental Agreement No. 1 executed by the LPA on November 13, 2012 and executed by the State on November 29, 2012 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their proper officials thereunto duly authorized as of the dates below indicated.

EXECUTED by the LPA this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

WITNESS: RaNae Edwards	CITY OF GRAND ISLAND Jay Vavricek
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_____ LPA Clerk	_____ Mayor
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EXECUTED by the State this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

STATE OF NEBRASKA  
DEPARTMENT OF ROADS  
Mick Syslo, P.E.

\_\_\_\_\_  
Materials & Research Division Engineer



## RESOLUTION 2013-139

WHEREAS, on April 12, 2011 the Grand Island City Council approved entering into an agreement with the Nebraska Department of Roads (NDOR) for the construction of the US-30 Drainage Improvement Project; and

WHEREAS, the original agreement with NDOR correctly calculated the City and Federal shares, the agreement was not specific in describing the funding shares for all the items involved with the Preliminary Engineering, Right of Way and Construction phases; and

WHEREAS, the Nebraska Department of Roads considered it appropriate to provide clarity through a supplemental agreement, and

WHEREAS, the Federal share payable for the eligible and participating costs of the Preliminary Engineering and Right-of-Way Phases of this project, including preliminary engineering, NEPA services, final design, Right-of-Way, Responsible Charge and NDOR costs, will be a maximum of 80 percent; and

WHEREAS, the Federal share payable for the eligible and participating costs of the Construction phase of this project, including Utilities, Construction, Construction Engineering, Responsible Charge and NDOR costs, will be a maximum of 62 percent; and

WHEREAS, Supplement Agreement No. 1 was approved on November 13, 2012 by Resolution No. 2012-332; and

WHEREAS, Supplement Agreement No. 2 is necessary to show their commitment to delivering all Local Public Agency federal aid projects, NDOR will use the August Redistribution funds in FFY2013 and FFY2014 to provide for full federal participation for all First Class City STP projects that are currently programmed; and

WHEREAS, individual projects are to be capped at their current estimate; and

WHEREAS, the current total estimated cost for the US 30 Drainage Improvement Project is \$1,495,319.00. The amount of Federal STP funds obligated to date is \$193,967.00. The program supplemental agreement caps the amount for future obligations at \$817,528.00.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that Supplemental Agreement No. 2 with the Nebraska Department of Roads for the construction of the US-30 Drainage Improvement Project is hereby approved.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to execute such Supplemental Agreement No. 1 on behalf of the City of Grand Island.

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Adopted by the City Council of the City of Grand Island, Nebraska, May 14, 2013.

\_\_\_\_\_  
Jay Vavricek, Mayor

Attest:

\_\_\_\_\_  
RaNae Edwards, City Clerk

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Approved as to Form	☐ _____
May 10, 2013	☐ City Attorney