
GIAMPO – Policy Board

Tuesday, September 17, 2013

Regular Session

Item H3

NDOR Memorandum of Agreement

Staff Contact: Mayor Jay Vavricek

MEMORANDUM OF AGREEMENT FOR
TRANSPORTATION PLANNING AND PROGRAMMING
BY AND BETWEEN THE
GRAND ISLAND AREA METROPOLITAN PLANNING ORGANIZATION
AND
THE NEBRASKA DEPARTMENT OF ROADS

This Memorandum of Agreement (MOA), made this _____ day of _____, 2013,
by and between the Grand Island Area Metropolitan Planning Organization (MPO) and the
Nebraska Department of Roads (NDOR).

WITNESS THAT

WHEREAS, pursuant to various statutes, the Federal Highway Administration (FHWA)
and the Federal Transit Administration (FTA) have established regulations which call for each
metropolitan area to have a continuing, cooperative, and comprehensive transportation
planning process that considers all transportation modes and supports metropolitan
community development as a requirement for obtaining federal transportation funds; and

WHEREAS, federal statutes and regulation require each state to have a statewide
transportation planning process that is fully coordinated with the metropolitan transportation
planning process; and

WHEREAS, federal regulations establish a coordinated statewide and MPO
transportation planning process that includes the development of a transportation plan
addressing no less than a twenty-year planning horizon as of the effective date of the
transportation plan for the metropolitan planning organization; and

WHEREAS, the MPO is responsible for the long range transportation plan within its
Metropolitan Planning Area (MPA) ; and

WHEREAS, the purpose of this MOA is to define the specific roles and responsibilities of
the MPO and the NDOR for metropolitan transportation planning and programming, to
implement these statutes and regulations, and to ensure that a cooperative transportation
planning and programming process is established between the MPO and the NDOR in the
metropolitan planning area; and

WHEREAS, the MPO was created in 2013 by the action of the Governor of the State of
Nebraska and by a City Of Grand Island resolution and by a Memorandum of Understanding

between the City of Grand Island and the State of Nebraska, Department of Roads (2013), that empowered the MPO to make and adopt a Regional Plan for the physical development of the territory within its geographic area, including transportation and land use plans, and nothing contained in this MOA shall be construed to abrogate or delete the exercise of statutory powers and duties of local boards or commissions and limit their ability under state and federal law to review and take action on all matters within the scope of its statutory responsibilities; and

WHEREAS, the NDOR is responsible for formulating the general policy and planning the statewide transportation system including the management, construction and maintenance of public highways in Nebraska, for adopting a statewide transportation plan, Statewide Transportation Improvement Program and annual budgets for the construction, maintenance and operation of the state highway system, and nothing contained in this MOA shall be construed to abrogate or delete the exercise of the statutory powers and duties of the NDOR as the appropriate state agency under state and federal law to review and take action on all matters within the scope of its statutory responsibilities; and

WHEREAS, the Nebraska state statutes have authorized the NDOR to implement policy and direction and enter into all contracts and agreements with other units of government to take such other actions as may be necessary to comply with federal laws and regulations; and

WHEREAS, Grand Island Area MPO is the designated Metropolitan Planning Organization (MPO) pursuant to 23 USC 134 and 49 USC 5303 et seq. and continues to carry out its responsibilities in accordance with 23 CFR 450, and

WHEREAS, the pertinent federal regulations require that there be an agreement between the MPO and the NDOR that specifies the responsibilities for cooperatively carrying out transportation planning and programming; and

WHEREAS, it is the desire and intent of the parties to fulfill the pertinent federal requirements for the MPO pursuant to this MOA, while recognizing, and preserving the policies and statutory responsibilities of the NDOR under its enabling legislation; and

WHEREAS, federal regulations require that the metropolitan transportation planning and programming process considers all modes of transportation and provides for consideration of projects, strategies and services consistent with metropolitan and local goals that will:

1. Support the economic vitality of the metropolitan area; especially by enabling global competitiveness, productivity, and efficiency;
2. Increase the safety of the transportation system for motorized and non-motorized users;
3. Increase the security of the transportation system for motorized and non-motorized users;
4. Increase accessibility and mobility of people and freight;
5. Protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;
6. Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;
7. Promote efficient system management and operation; and
8. Emphasize the preservation of the existing transportation system ; and

WHEREAS, successful implementation of the MPO's comprehensive plans and programs requires the continuing cooperative effort of local, regional, and state governments.

NOW, THEREFORE, BE IT RESOLVED THAT the parties hereto do mutually agree as follows:

A. PARTIES

The MPO and the NDOR hereby agree to carry out and actively participate in the continuing, cooperative and comprehensive metropolitan transportation planning and programming process in accordance with applicable federal and state law and regulations. Further, the parties agree to cooperate to establish effective mechanisms to meet the needs of the metropolitan transportation planning and programming process, including providing for public involvement in regional and state transportation planning.

B. APPLICABILITY

This MOA applies to the continuing, cooperative and comprehensive metropolitan transportation planning and programming process required for the MPO by 23 U.S.C. Section

134, and 4 U.S.C. 5303, et seq. and as implemented by the applicable regulations in order for the region to qualify for federal transportation funds and meet regional transportation planning requirements.

C. PURPOSE

This MOA is established to define the specific roles and responsibilities of the MPO and the NDOR for metropolitan transportation planning and programming within the Metropolitan Planning Area (MPA) boundaries of the MPO.

The MPO and the NDOR hereby agree to carry out and actively participate in the continuing, cooperative and comprehensive metropolitan transportation planning and programming process in accordance with applicable federal and state law and regulations.

The parties agree that metropolitan transportation planning and programming processes leading to the development and adoption of long range transportation plans (LRTP) and transportation improvement programs (TIP) may change in order to respond to changes in the law, restructuring within their respective organizations, or to reflect prior experience and local process.

D. PARTICIPANT RESPONSIBILITIES

The MPO, in cooperation with the NDOR and the operators of publicly owned transit services, is responsible for operation and maintenance of the metropolitan transportation planning and programming process within the MPA boundaries of the MPO. This responsibility includes preparing and adopting, in a manner consistent with the MOA, all required transportation plans, transportation improvement programs and documents of the metropolitan transportation planning and programming process.

The parties to this MOA agree to actively participate in the metropolitan transportation planning and programming process, to cooperate to establish effective mechanisms to meet the needs of the metropolitan transportation planning and programming process and to fulfill commitments established pursuant to this MOA. While it is recognized that the parties are ultimately bound by the actions of their respective agencies, they commit to present within their organizations the recommendations resulting from the metropolitan transportation planning and programming process.

E. PARTICIPATION IN THE PLANNING PROCESS

The MPO has a technical advisory committee to address transportation and transportation-related issues. The NDOR will maintain membership on, and will cooperatively participate in, this committee. Any changes to the status of the NDOR role in the MPO technical advisory committees will be made in consultation with the MPO. Cooperation, or cooperative participation, means that the NDOR will actively participate on the MPO's technical advisory committee; will provide adequate opportunity for the other to review and comment on draft transportation plans, transportation improvement programs and related documents; and will provide constructive comments in a timely manner so they may be evaluated and acted upon.

To facilitate coordination in carrying out the metropolitan transportation planning and programming process, MPO and NDOR will cooperatively develop mechanisms and procedures to carry out the tasks needed to develop the metropolitan transportation planning and programming products required of the MPO. The MPO and NDOR will meet at least annually to discuss the metropolitan transportation planning and programming process carried out in the MPO transportation planning region, and will address:

1. The events of the past year, including any successes or failures between the participants in carrying out a continuing, cooperative, and comprehensive transportation planning and programming process and the terms of this MOA;
2. Issues relating to the coming year's planning program; and
3. Other relevant matters.

The parties hereby agree to conduct the metropolitan transportation planning process in an open manner such that members of the public, local entities, other transportation providers, and other interested parties can fully participate. The parties agree to take appropriate actions to ensure public participation through means identified in the MPO's public involvement procedures.

F. ORGANIZATION OF PLANNING PROCESS

1. The MPO Policy Board and Technical Advisory Committee Structure
 - a. Policy Board

The Policy Board of the MPO, as prescribed in its Bylaws, is the policy body for the MPO transportation planning region. The Policy Board maintains a staff to support its activities. The Policy Board may, from time to time, by appropriate resolution, appoint such committees, task forces, study groups, working groups, or other ad hoc or formal groups as it deems expedient to provide advice, recommendations, or technical expertise to further the principles and purposes of the MPO in its role as the Metropolitan Planning Organization and Transportation Management Agency. The MPO retains at its discretion all rights to define, limit, or terminate the activities of such groups without necessitating a change to this MOA. The NDOR has one (1) vote on the Policy Board.

The MPO's By-Laws define the purpose, composition, and operating characteristics of the Policy Board and its advisory committees. The following advisory committees and staff structure currently provide advice and recommendations to the MPO Policy Board regarding Metropolitan Planning Organization and Transportation Management Agency matters and responsibilities.

b. Technical Advisory Committee

The purpose of the MPO Transportation Technical Advisory Committee (TTAC) is to provide technical advice and to recommend appropriate courses of action to the MPO Policy Board and the MPO staff on current and emerging transportation issues, goals, plans, and programs affecting the MPO. The advice and recommendations address at least the:

- i. Unified Planning Work Program;
- ii. Transportation Improvement Program;
- iii. Long-Range Transportation Plan;
- iv. Policies and programs as may be directed by the MPO.

The NDOR has two (2) votes on the TAC.

G. GENERAL RESPONSIBILITIES

The parties recognize that the NDOR has a continuing duty of planning transportation systems of statewide significance, identifying potential transportation issues and concerns of statewide interest, and reconciling conflicts between Long Range Transportation Plans and transportation improvement programs. In carrying out its duties, the NDOR will partner with the MPO on activities within the MPA of the MPO.

The parties recognize that the MPO is the agency responsible for comprehensive metropolitan transportation planning and programming for the MPO pursuant to federal law. In carrying out its duties and responsibilities within its MPA, the MPO will cooperatively participate in activities with the NDOR.

The MPO and the NDOR will, as appropriate, coordinate public involvement for regional and statewide transportation plans and transportation improvement programs.

The MPO and the NDOR each will, in a timely manner, inform and seek comment from the other party on proposed new or revised policies, goals and strategies within their purview. Each party will also inform the other of new or revised federal policies, regulations, planning factors listed in 23 CFR 450.206, and other guidance that may affect statewide and/or metropolitan transportation planning and programming.

The NDOR will coordinate its project prioritization and programming process with the MPO's long range transportation plan and transportation improvement program development processes to ensure that the state highway system projects the NDOR recommends or selects for implementation in the MPO area are consistent with MPO priorities.

H. UNIFIED PLANNING WORK PROGRAM (UPWP)

The primary purpose of the UPWP is to provide guidance in the management of work by the staff of the MPO and serve as the basis for the MPO one year transportation planning program. The MPO's UPWP is developed in cooperation with local entities, NDOR, and FHWA/FTA. Annually the NDOR will prepare an agreement with the MPO, defining terms and conditions for the use of federal planning funds, along with the latest estimate of planning funds available, which is based on funding levels provided by FHWA and FTA. Upon approval, the UPWP for the MPO is submitted to

the NDOR for review and to the FHWA/FTA for approval. Upon NDOR and FHWA/FTA approval of the MPO's UPWP, the planning monies are available for the MPO's use for the various planning activities enumerated in the UPWP. Amendments to the UPWP will be subject to review and approval by the funding agencies. As a basis for review of UPWP amendment requests, each party will submit reasons for changes, scope of work revisions, and funding information. The MPO will require the same information from sub-grantees, if any.

The NDOR will review and comment upon draft UPWP's and UPWP amendments to determine eligibility of proposed expenditures. THE NDOR will also review and comment upon UPWP progress, UPWP funding, status of expenditures, and reports as appropriate. The MPO shall submit invoices on a quarterly basis at a minimum. However, payments will not be made more often than once each thirty days. The State upon receipt of the proper invoices will make every reasonable effort to provide payment to the MPO within thirty calendar days.

I. CERTIFICATION OF THE PLANNING PROCESS

Federal regulations require the MPO and the NDOR to certify that the metropolitan and statewide transportation planning process conforms with all applicable requirements of federal laws. The MPO and the NDOR will annually certify to the FHWA and the FTA that the metropolitan transportation planning and programming process is addressing the major issues facing the MPO, and is being conducted in accordance with all applicable requirements.

J. LONG RANGE TRANSPORTATION PLAN(S)

The MPO will review, update, and approve the Long Range Transportation Plan (LRTP) at least every five (5) years or as required by 23 CFR 450.322c. The MPO will develop the LRTP in consultation with federal and state officials responsible for planning affected by transportation. The MPO will develop the revenue projections for the LRTP in cooperation with the NDOR consistent with resource allocation for federal and state transportation funds. MPO and NDOR staff participates in the development of a recommendation of resource allocation. Such recommendation is considered for

adoption by the NDOR for federal and state transportation funds. For the purpose of developing the long range transportation plan, the MPO, the NDOR and the operators of publicly owned transit services shall cooperatively develop estimates of funds that will be available to support Long Range Transportation Plan(s) implementation.

The NDOR will participate in the development of the LRTP and will provide initial long-range estimates of available federal and state transportation funds for all funding categories. The MPO will use these initial long-range funding estimates during the cooperative development of the final LRTP funding levels. The NDOR will review and provide written comments, addressing fiscal constraint on the draft LRTP in time for the comments to be evaluated and acted upon prior to the draft LRTPs being released to the public for comment.

The MPO and NDOR shall cooperatively develop all federal and state funded transportation projects on the state highway system in the MPO transportation management area for inclusion in the MPO's long range transportation plan. The maintenance and operations program will be addressed in the LRTP at the system level. Inclusion of the maintenance and operation program in the LRTP will be considered a planning estimate, reasonably expected to be available, but not a guarantee or specific commitment of maintenance dollars to be spent in the MPO.

The MPO will develop the process and timeline for project prioritization and selection for each LRTP. The NDOR will participate in the development, review and approval of the project prioritization and selection process. The MPO will approve projects to be included in its LRTP.

When amending a LRTP, the MPO will ensure fiscal constraint is maintained. The NDOR will review and comment on LRTP amendments for fiscal constraint and transportation issues.

The parties will report events that may significantly impact long range transportation plans as soon as they become known. These events or conditions include problems, delays, or adverse conditions that will materially affect the revenue, schedule or scope

of a project. This disclosure will be accompanied by a statement of the action contemplated to resolve the situation.

K. TRANSPORTATION IMPROVEMENT PROGRAMS

For the purpose of developing the Transportation Improvement Programs (TIP), the MPO, the NDOR and operators of publicly owned transit services will cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

The MPO will develop and approve its TIP as appropriate in coordination with the Statewide Transportation Improvement Program (STIP) and LRTP. The MPO will ensure its TIP is fiscally constrained and that projects in it are consistent with the LRTP. The MPO will develop the TIP financial plan in cooperation with the NDOR consistent with the approved resource allocation for processing federal aid projects.

The MPO, in cooperation with the NDOR and the operators of publicly owned transit services, shall establish the TIP development schedule. The NDOR will participate in the development of the TIP and will provide initial estimates of available federal and state transportation funds for all funding categories. The MPO will use these initial funding estimates during the cooperative development of the final TIP funding levels. The NDOR will review and provide comments, addressing fiscal constraints on the draft TIP in time for the comments to be evaluated and acted upon prior to the draft TIP being released to the public for comment. After the TIP is approved by the MPO and the Governor, the NDOR will amend the TIP into the STIP without modification. The NDOR will submit its amended STIP to the FHWA and the FTA for approval and provide copies to the MPO.

The MPO and NDOR shall cooperatively develop all federal and state funded transportation projects on the state highway system in the MPO transportation management area for inclusion in MPO's TIP. The maintenance and operations program will be addressed in the TIP at a system level. The maintenance and operations program will be considered a planning estimate, reasonably expected to be available,

but not a guarantee or specific commitment of maintenance dollars to be spent in the MPO.

The MPO will develop the process and timeline for project prioritization and selection for each TIP. The NDOR will participate in the development, review and approval of the project prioritization and selection process.

When amending a TIP, the MPO will ensure that consistency with the current long range transportation plan and fiscal constraint are maintained. The NDOR will review and comment on draft TIP amendments for consistency with the STIP and fiscal constraint.

The parties will report events that might have significant impact on the TIP as soon as they become known. These events or conditions include problems, delays, or adverse conditions that will materially affect the revenue, schedule or scope of a project. This disclosure will be accompanied by a statement of the action contemplated to resolve the situation.

The NDOR, in cooperation with the MPO, will ensure all contract scopes for all projects using federal funds carried out within the MPA boundaries of the MPO are consistent with the MPO's TIP. The NDOR will provide budget reports on all open projects using federal funds carried out within the MPA boundaries of the MPO upon request.

L. ANNUAL LISTING OF OBLIGATED PROJECTS

In cooperation with NDOR and operators of publicly operated transit services, the MPO will develop an annual listing of obligated highway and transit projects requiring federal dollars from the preceding program year. The listing shall be consistent with information contained in the TIP.

M. CORRIDOR OR OTHER MAJOR STUDIES

The MPO may be the lead agency to conduct regional, multi-jurisdictional corridor or feasibility studies for roadways on the state highway system on behalf of the NDOR after discussion with and agreement by the NDOR.

The MPO is responsible for maintaining and updating the regional transportation model for the arterial roadways within the MPO urbanized area. The NDOR will provide existing traffic count information in the form of annual average daily traffic (AADT) volume for all state highways within the MPO urbanized area. This information shall be converted to average daily traffic (ADT) and used by the MPO for model calibration and by NDOR as data input for the bi-annually prepared traffic flow map. The regional transportation model shall be updated to include new census information that is developed and published every ten years by the Census Bureau. NDOR shall review the MPO's model as it is being developed or updated to ensure model performance and consistency is achieved. The MPO and NDOR shall work cooperatively in the development and application of the regional transportation model.

The MPO and NDOR will share in the traffic counting responsibilities for roadways within the MPO urbanized area. Generally, the MPO will perform traffic counts for roadways off of the state highway system, and NDOR will perform traffic counts for all roadways on the state highway system, including the interstate system. The MPO and NDOR agree that traffic counting services may be requested for roadways on the other entity's system. This service may be requested due to an entity's current staffing and workload conditions or in cases where deadlines require this level of cooperation.

As appropriate, the MPO will participate in other NDOR transportation planning efforts within the MPO region. Additional transportation planning processes include but are not limited to:

- NDOR 's Public Hearing and Project Approval Process
- NDOR's Corridor Study Process
- Updates/revisions to the State Highway Access Control Policy process;
and
- Project environmental reviews (Environmental Assessments,
Environmental Impact Statements, Categorical Exclusions, etc)

N. DISPUTE RESOLUTION

The MPO and the NDOR staff will make every attempt to resolve differences at the appropriate staff level and in a timely manner. Differences not resolved at the staff level will be addressed by the MPO executive director and the NDOR Director-State Engineer. Policy issues not settled at the executive director and NDOR Director-State Engineer level will be taken to the FHWA/FTA level for resolution.

O. AMENDMENT OR TERMINATION OF AGREEMENT

This MOA will be reviewed at least every four years. It may be amended, whenever deemed appropriate, by written agreement of both parties.

Either party to this MOA may terminate it by a 60-day written notice to the other party. If this occurs, the parties agree to consult further to determine whether the issues can be resolved and the agreement re-implemented in an amended form.

The undersigned parties hereby agree to the roles and responsibilities described above.

NEBRASKA DEPARTMENT OF ROADS

GRAND ISLAND AREA METROPOLITAN
PLANNING ORGANIZATION

Director – State Engineer

Mayor

Date

Date