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# Technical Advisory Committee

Monday, December 8, 2014

Regular Session

## Item H2

**Agreement with Nebraska Department of Roads for FY 2005 Section  
5303 Transit Planning**

Staff Contact: John Collins PE, Public Works Director

AGREEMENT  
BETWEEN  
GRAND ISLAND METROPOLITAN PLANNING ORGANIZATION  
AND THE  
STATE OF NEBRASKA  
DEPARTMENT OF ROADS

Grand Island Metropolitan Planning Organization (GIAMPO)  
Project No. C990(015)  
Section 5303 – FTA Planning

THIS AGREEMENT, entered into by the Grand Island Metropolitan Planning Organization, (hereinafter referred to as GIAMPO) and the State of Nebraska, Department of Roads (hereinafter referred to as the State) is for the purpose of providing partial funding of GIAMPO's transportation planning activities scheduled to be performed commencing July 1, 2014, as outlined in the Unified Work Program attached to this Agreement.

Federal Transit Administration funding for GIAMPO's portion of transportation planning activities under this Agreement is \$21,891.00 of 49 USC Section 5303 funds for Fiscal Year 2015.

WHEREAS, the Federal transportation's legislation requires that a continuing, comprehensive transportation planning process be carried on cooperatively between State and Local governments in urban areas of over 50,000 population; and

WHEREAS, GIAMPO has agreed to establish and maintain a continuing comprehensive and cooperative transportation planning process in the Metropolitan Area on behalf of those governmental subdivisions; and

WHEREAS, GIAMPO has been designated as the recipient agency for planning funds pursuant to the Federal Transportation Administration's legislation; and

WHEREAS, the Federal transportation's legislation requires the State to administer the 49 USC Section 5303 MPO Planning Funds for the Federal Transit Administration (FTA);

NOW, THEREFORE, in consideration of these facts the parties agree as follows:

#### I. SCOPE OF AGREEMENT

A. The work to be performed under the terms of this Agreement for GIAMPO's transportation planning program will be conducted in accordance with the fiscal year 2015 Unified Work Program included herewith as Exhibit "C" and made a part of this Agreement.

B. GIAMPO shall:

1. Provide the necessary administration of committees and staff, and consult, collaborate and coordinate with the State to accomplish the objectives of the Work Program.
2. Assign qualified GIAMPO staff personnel as needed to execute GIAMPO's portion of the Work Program.
3. Coordinate all transit planning activities with other transportation service providers in the area.
4. Arrange for and conduct meetings and conferences to review working details and make presentations to the principals, participants and other interested groups and bodies as will best promote and effect cooperation, coordination and understanding in the Program.

C. State shall

1. Assign qualified personnel as needed to accomplish tasks assigned to or agreed to by the State.

#### II. DURATION OF AGREEMENT

GIAMPO and the State agree to perform their responsibilities as outlined in the Work Program within the time of this Agreement. The Agreement shall cover all work performed commencing with the fiscal year beginning July 1, 2014 and ending June 30, 2015.

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### III. PAYMENT

- A. The State agrees to pay for the services rendered by GIAMPO under the terms of this Agreement, compensation on a cost reimbursement basis for costs incurred and to include direct and indirect costs in accordance with the applicable provisions of 23 CFR 172 and the contract cost principles and procedures set forth in 48 CFR Part 1.31.6 of the Federal Acquisition Regulation System. When specific Federal Highway Administration reimbursement policy differs from the Federal Acquisition Regulation System the Federal Highway Administration policy shall apply. When claimed for reimbursement, the rate for indirect costs will be, at a maximum, that determined by an audit of GIAMPO's payroll and related expenses for the FY 1994 PL Contractual Agreement. Only those payroll-related expenses shown in the 401 Element of Exhibit "A" and included in the employee fringe benefits in Part 1.31.6 of the Federal Acquisition Regulation System (48 CFR 1.31.6) will be eligible for reimbursement. Direct and indirect costs shall not exceed, in any event, twenty-one thousand and eight hundred ninety-one dollars (\$21,891) for costs incurred during fiscal year 2015.
- B. Payments will be made to GIAMPO not more often than once each thirty (30) days, and shall be for services theretofore performed under this Agreement. GIAMPO shall submit invoices in duplicate within twenty (20) days following the end of the period covered by the account. The invoices or supplements thereto shall be the basis of payment pursuant hereto, and shall contain a statement of GIAMPO's estimate of the percentage of work completed and be signed by a responsible representative of GIAMPO certifying that all of the items therein are true and correct for the work performed under the provisions of this Agreement. Payment shall be made subject to audit by duly authorized representatives of the State. The State upon receipt of the proper invoices will make every reasonable effort to provide payment to GIAMPO within fifteen (15) calendar days thereafter.
- C. Payment for partial billings will be determined by multiplying the value of the percentage of work completed by 0.80. In no event may the total interim payments exceed eighty percent of the value of the total work completed and may not exceed \$21,891 for fiscal year 2015.
- D. GIAMPO shall submit to the State a listing of all GIAMPO personnel positions that may be selected or assigned to the work contemplated herein. Said listing shall indicate the title or classification and salary range of each such position. It is agreed that employees of GIAMPO whose time is directly assignable to the Program shall keep and sign a time record showing element of Program, date and hours worked and title of position.
- E. It is understood that reimbursement for out-of-state travel costs will not be requested by GIAMPO unless written prior approval for such travel has been given by the State. The rate of reimbursement will be that allowed by the State for travel by its own employees.

### IV. CHANGES IN THE WORK PROGRAM

- A. If, after consultation with the State, it is determined that changes to the work program are necessary, written approval by the State and the FTA shall be obtained.
- B. The parties to this Agreement agree to collaborate closely on the decisions affecting the composition, scope and duration of the work and those decisions shall receive the written approval of the State prior to proceeding with the Program.
- C. If, as the work progresses, major changes in the schedules, funding, scope, character or estimated total cost of the work to be performed is deemed necessary or desirable, adjustments for payment or modification in the performance of the work shall be submitted by supplemental agreement to the State for review and approval by the State and the FTA.

## V. REPORTS

GIAMPO shall prepare reports suitable for publication as indicated in the Work Program. A draft of each report shall be submitted to the State for review and approval. Upon final review and approval by the State, and the FTA, GIAMPO will deliver a final report. Both draft and final reports can be transmitted electronically in a formatted file agreeable by the State.

## VI. INSPECTION OF WORK

The State and authorized personnel of the FTA or any authorized representative of the Federal government shall at all times be accorded proper facilities for review and inspection of the work hereunder and shall at all times have access to the premises of all books, records, correspondence, instructions, receipts, vouchers and memoranda of every description pertaining to the work hereunder.

## VII. RECORDS

GIAMPO shall maintain an accurate cost-keeping system as to all costs incurred in connection with the subject of this Agreement and shall produce for examination books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by the State, FTA or any authorized representative of the Federal government and shall permit extracts and copies thereof to be made, during the contract period and for three (3) years after the date of final payment.

## VIII. AUDITS

GIAMPO shall at all times afford a representative of the State, FTA, or any authorized representative of the Federal government, reasonable facilities for examination and audits of the cost account records; shall make such returns and reports to a representative as he may require, shall produce and exhibit such books, accounts, documents and property as he may desire to inspect, and shall in all things aid him in the performance of his duties. GIAMPO shall be responsible for meeting the audit requirements of OMB Circular A-133, or any revision or supplement thereof.

## IX. OWNERSHIP OF DATA

Originals of all documents including computer tapes, tracings, drawings, estimates, specifications, field notes, investigations, studies, etc., as instruments of service under terms of this Agreement are to be the joint property of the political jurisdiction and governmental agencies participating in the transportation planning process. Copies of said documents will be made available to such participants upon request at costs of such reproduction.

## X. PUBLICATION OR RELEASE OF INFORMATION

- A. Papers, interim reports, forms or other material which are a part of the work under contract will not be copyrighted without written approval of the State and FTA.
- B. Either party to the Agreement may initiate a request for publication of the final or interim reports, or any portions thereof.
- C. Publication by either party shall give credit to the other party and to the FTA. However, if the State or FTA does not wish to subscribe to the findings or conclusions of the study the following statement shall be included on the credit sheet: "The opinions, findings and conclusions expressed in this publication are those of the authors and not necessarily those of the State or the Federal Transit Administration."
- D. In the event of failure of agreement between the State and GIAMPO relative to the publication of any reports during the period of the contract, each party reserves the right to publish independently, in which event the non-concurrence of the other party shall be set forth, if requested.
- E. Both written and oral releases are considered to be within the context of publication. However, there is no intention to limit discussion of the study with participants in the

Transportation Planning Program, small technical groups or lectures to employees or students. Lectures to other groups which describe the plans are permissible.

- F. Neither party shall publish nor otherwise disclose, nor permit to be disclosed or published, the results of the investigation herein contemplated, during the period of the Agreement, without notifying the other party.
- G. When the scheduled time for presentation of a paper does not permit formal review and approval of a complete report, abstracts may be used for notification of intent to present a paper based on the study. Such presentation must protect the interest of the other party by the inclusion of a statement in the paper and in the presentation to the effect that the paper had not been reviewed by the State.

#### XI. CLAIMS

GIAMPO indemnifies, saves and holds harmless the State and all its agents and employees of and from any and all claims, demands, actions or causes of action of whatever nature or character arising out of or by reason of the work to be performed by GIAMPO hereunder and further agrees to defend at its own sole cost and expense any action or proceeding commenced for the purpose of asserting any such claim of whatever character arising as a result of the action taken hereunder by GIAMPO. It is further agreed that any and all employees of GIAMPO and all other employees except employees of the State while engaged in the performance of any work or services required or provided for herein to be performed by GIAMPO shall not be considered employees of the State, and that any and all claims that may or might arise under the Workers' Compensation Act of the State of Nebraska on behalf of said employees while so engaged and any and all claims made by any third parties as a consequence of any act or omission on the part of said employees while so engaged on any of the work or services provided to be rendered herein shall in no way be the obligation or responsibility of the State.

#### XII. CONTRACTUAL SERVICES

All agreements for contractual services pertinent to the Work Program and subject to partial reimbursement under this Agreement shall be submitted to the State for review and prior to final execution shall have been approved in writing by the State. GIAMPO intends to provide the services pertinent to the Work Program with its own personnel. It is understood, however, that not less than fifty percent (50%) of such work will be performed with GIAMPO personnel and/or by subcontract with other public agencies.

#### XIII. CANCELLATION

The State reserves the right to cancel this Agreement at any time it deems it to be in the best interest of the State upon giving thirty (30) days written notice of such cancellation to GIAMPO. If the contract is cancelled under this provision, the State shall reimburse GIAMPO for all expenses incurred and work completed to the date of cancellation.

#### XIV. LIMITATIONS OF LAW

It is mutually understood between the parties that the final authority in highway matters now vested in the State by federal and state statutory and case law shall not be affected by this Agreement.

#### XV. NONDISCRIMINATION

GIAMPO agrees to abide by the provisions of the Nebraska Fair Employment Practices Act as provided by Neb.Rev.Stat. §48-1101, through 48-1126 (Reissue 1988); and all regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49 CFR, Parts 21 and 27 as set forth in Exhibit "A" attached hereto and hereby made a part of this agreement.

XVI. TITLE VI

As the State is the recipient of the FTA Section 5303 funds and extends FTA financial assistance to GIAMPO to comply with Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. and related provisions in regulation, the State shall provide assistance to GIAMPO in complying with the general reporting requirements and shall monitor GIAMPO's compliance with Title VI (as outlined in Circular 4702.1B, Chapter III, 3, 10 and 11 and Appendix K). If GIAMPO subcontracts any of its metropolitan planning organization activities that the State provides the FTA Section 5303 funds for these activities, these Title VI provisions shall extend to the subcontracts.

XVII. DISADVANTAGED BUSINESS ENTERPRISES

The Contractor, sub-recipient or sub-contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Department deems appropriate.

XVIII. LOBBYING CERTIFICATION

GIAMPO agrees to abide by the provisions of the Federal Lobbying Certification since federal funds shown in this agreement exceed \$100,000. "Certification for grants, loans, and cooperative agreements" is included herewith as Exhibit "B" and made a part of this agreement

XIX. EQUIPMENT

- A. The State agrees to participate in the cost of specialized items of equipment, not of a nature normally used or required in the regular administrative or engineering operations of GIAMPO, which items are required for, and will be used primarily on work incident to this Agreement, and the cost of which is considered reasonable.
- B. GIAMPO agrees to certify that items of equipment included in direct costs have been excluded from the indirect costs.
- C. GIAMPO agrees to obtain the approval of the State and of the FTA prior to the purchase of an item of equipment of the type described above in Paragraph A.