



City of Grand Island

Tuesday, October 26, 2010

Council Session

Item I3

#2010-307 - Approving Interlocal Agreement with Nebraska First Class Cities for L200 Federal Transportation Funding

Staff Contact: Steven P. Riehle, Public Works Director

Council Agenda Memo

From: Steven P. Riehle, Public Works Director

Meeting: October 26, 2010

Subject: Approving Interlocal Agreement with Nebraska First Class Cities for L200 Federal Transportation Funding

Item #'s: I-3

Presenter(s): Steven P. Riehle, Public Works Director

Background

The City of Grand Island has been a recipient of approximately \$900,000 of annual federal transportation funds (L200 funding category), these funds do not include safety projects, safe routes to school projects or transportation enhancement projects such as trails or downtown lighting, bridges, etc. The Nebraska Department of Roads (NDOR) allocated the L200 funds to Grand Island and the other first class cities based on a long time formula that included factors such as lane miles of streets, population, etc. The NDOR kept a running total of dollars of a community's L200 federal transportation funds. This would allow a community to build up funds for a large project.

The Federal Highway Administration (FHWA) has advised the NDOR that federal transportation funds have to be obligated to a project before the federal fiscal year ends on September 30th of each year.

Federal Transportation funds are considered "obligated" to a project when the plans, specifications and estimate (PS&E) package was approved and the project was ready to be advertised for bids.

If, as a group, the first class cities were unable to obligate all of the funds available for the first class cities, the NDOR would use the unobligated dollars on a state federal aid project. The NDOR would allow first class cities to keep the funds "in the bank" of sorts to be used in a subsequent year.

The NDOR uses State Transportation funds to provide the flexibility needed in balancing the system and avoid the lapse of any federal funds. The state funds available for the state's transportation program are not keeping pace with the needs, thereby no longer

allowing the flexibility to keep running balances in the individual accounts of first class cities.

Discussion

The proposed system joins together the first class cities across Nebraska through an inter-local agreement. The Nebraska League of Municipalities (NLM) will assist with management of the inter-local agreement. The NDOR has agreed to keep track of a pro-rata funding system that approximates the current system. The cities of the first class will work through the inter-local agreement to submit a list of projects based on readiness and local priorities.

A quick summary of the proposed inter-local agreement is as follows:

- Participants will present eligible projects list to NDOR
- Projects shall be prioritized so available funds can be utilized
- Prioritization shall match pro-rata distribution of funding to the maximum extent possible
 - pro-rat distribution will not take precedence over ensuring that funds don't lapse
- Participants will hold meeting to determine procedures
- A method of determining who serves as the City's representative will be part of procedures
- Procedures can include an Executive Committee
- Representatives will meet at least 4 times annually

Attached for City Council reference is a memo dated September 29, 2010 from Lash Chaffin that provides more details on the process. A copy of the proposed inter-local agreement is also attached.

Alternatives

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

1. **Move to approve** – Public Works & City Administration believe that the inter-local agreement for L200 federal transportation funds will benefit any first class city that has a system in place to manage the projects. Working with Public Works Director/City Engineer, Steve Riehle; the recent hires of Terry Brown as Manager of Engineering Services; and Scott Griepenstroh as Project Manager will significantly increase Grand Island's ability to manage federal transportation projects.
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue – Public Works Administration recommends against taking no action on the agreement. If the City does not enter into the

inter-local agreement, we will be required to spend our approximately \$900,000 of L200 funds each year. We will lose flexibility, the ability to build up funds and lose whatever portion of the \$900,000 we don't get obligated each year.

Recommendation

Public Works Administration recommends that the Council approve the City entering into the inter-local agreement with Nebraska First Class Cities for L200 federal transportation funding.

Sample Motion

Move to approve the City entering into the inter-local agreement.



UTILITIES SECTION

AN ASSOCIATION OF MUNICIPAL WATER,
ELECTRIC, GAS AND SEWER DEPARTMENTS

TO: Municipal Clerk: Please distribute immediately to All Elected Officials
Administrator/Manager City Attorney, Public Works Superintendent, Street
Superintendent, and Federal Highway Project Responsible Charge Designee.

FROM: Lash Chaffin, Utilities Section Director

DATE: September 29, 2010

RE: Federal Transportation Funding Interlocal Agreement

Enclosed is a final draft of the City of the First Class Federal Transportation Funding Interlocal Agreement. This incorporates all of the suggestions made when the draft was sent to you in August. If you want to continue to participate in the L200 funding program, it is imperative that your City work cooperatively with the other Cities of the First Class so that we can ensure that this funding is still locally controlled. Please adopt this Interlocal at your earliest opportunity, and we will then schedule a meeting of the Interlocal group and the appropriate staff from the Department of Roads so that they can help outline your tasks for the next few years. Please send an executed copy of the Interlocal to our office at 1335 L Street, Lincoln, NE 68508.

HISTORY. A couple months ago, many of the Cities of the First Class not in a Transportation Management Area participated in a Nebraska Department of Roads webinar where it was shared that for many of the last few years, these Cities of the First Class have not had enough projects brought forward to spend the amount of money allocated to their funding class for a particular year. The result of this is that some funding allocated for local City of the First Class priorities has been and will be spent on State of Nebraska priority projects rather than City of the First Class priorities. The Department of Roads has made an effort to fund State priority projects that are actually in Cities of the First Class, but this was a courtesy that they extended to their City of the First Class partners since this was not actually required under federal law.

There was much discussion about the reasons that Cities of the First Class were unable to successfully get projects in the queue, and efforts will continue to remedy some of these delays. However, in addition to the delays associated with environmental documents etc., it is becoming clear that both the Department of Roads and the Cities of the First Class have historically treated the L200 Federal Transportation Funding Category as a pro-rata allocation. In fact, the federal law is simply an annual allocation to the ENTIRE funding category as a collective, and requires that the allocation be spent in that year. Not every State uses a pro-rata allocation method. In Nebraska, some cities have just been waiting for a pro-rata share of funding to build up so that they can do a big project. On its face, waiting to fund a project seems like a worthy policy choice. But, if too many cities wait for enough money to be available for a project, then there are not enough projects to meet the spending requirements in an individual year then the funding goes away unless the Department of Roads can spend it on other projects.

So, the overwhelming consensus was that this was unacceptable, and that the Cities of the First Class had to take a bigger role in their own funding destiny. Hopefully, through this Interlocal Agreement, and the accompanying cooperative discussions, the Cities of the First Class will be able to submit to the Department of Roads a project priority list based on readiness and local priorities. Every City that I have talked to would like to like to develop a system to approximate the current pro-rata system as closely as possible.

The Department of Roads will be willing to keep track of pro-rata funding credits so that the Representatives can create a list of priority projects that approximates the current system. Also, the Department had stated that they will not fund projects that are not part of the Interlocal Agreement priority list.

If you have any questions, please feel free to give me a call.

NEBRASKA CITY OF THE FIRST CLASS FEDERAL HIGHWAY TRANSPORTATION FUNDING AGREEMENT

PURPOSE

The NEBRASKA CITY OF THE FIRST CLASS FEDERAL HIGHWAY TRANSPORTATION FUNDING AGREEMENT is hereby established to ensure that Cities of the First Class in the State of Nebraska maximize federal funding opportunities for transportation projects at the local level.

PARTIES

This Agreement (“Agreement”) is entered into by, **CITY OF GRAND ISLAND**, that by the signatures on duplicate original copies of this Agreement has consented to the terms of this Agreement. Any City that has signed this Agreement and submitted a copy to the League of Nebraska Municipalities located at 1335 L Street, Lincoln, NE, is a party to this Agreement. Eligible participants shall be limited to any City of the First Class in the State of Nebraska that is eligible for federal surface transportation funding in the L200 funding category, or a substantially similar category that may go by a different title. Cities of the First Class located in a Transportation Management Area are not eligible for L200 funding at this time.

EXECUTION OF AGREEMENT PURPOSES

- Participants in this Agreement shall annually, or more often as needed, prepare a list of transportation projects eligible for L200 federal funding. This list shall then be presented to the Department of Roads for their consideration.
- The list shall include prioritization of projects to guarantee that projects are available in the proper funding years so that available L200 funds can be utilized to the maximum extent possible in Cities eligible for L200 funding.
- To the maximum extent possible, the prioritization of projects shall reflect a pro-rata distribution of funding over a period of multiple years. However, in no event shall the consideration of pro-rata funding take precedence over ensuring that projects are available in the proper funding year so that available L200 funds can be utilized to the maximum extent possible in Cities eligible for L200 funding.
- Upon execution of this Agreement by 15 Cities of the First Class eligible for

Federal Funding in the L200 category, those Cities shall hold a meeting to determine procedures to carry out the purposes outlined in this agreement.

- Such procedures shall include a method of determining who shall serve as the City's representative to the Interlocal Agreement.
- Such procedures can include the election of an executive committee that includes persons with expertise in determining when projects can be processed through the Department of Roads system.

The Representatives of this Agreement shall meet at least 4 times annually with the Department of Roads staff to discuss issues associated with the preparation of the priority list. One of those meetings shall be in association with the League of Nebraska Municipalities Utilities Section Annual Conference and shall include training on issues associated with L200 Funding.

EXPENSES

All participants to this Agreement shall be responsible for their own expenses related to the execution of this Agreement.

GOVERNANCE AND VOTING

The NEBRASKA CITY OF THE FIRST CLASS FEDERAL HIGHWAY TRANSPORTATION FUNDING AGREEMENT shall be governed by a Board of one representative from each participating City. On an annual basis, each participating City shall be responsible for communicating to the League of Nebraska Municipalities the name of its Representative. The representative from each City shall be entitled to one vote on matters before the Board. The Board shall adopt procedures for alternate representatives.

FUNDING AND PROPERTY OWNERSHIP

The NEBRASKA CITY OF THE FIRST CLASS FEDERAL HIGHWAY TRANSPORTATION FUNDING AGREEMENT shall not collect dues, taxes or any type of revenue from the participating Cities. The NEBRASKA CITY OF THE FIRST CLASS FEDERAL HIGHWAY TRANSPORTATION FUNDING AGREEMENT shall not own property.

TERM AND DURATION

This Agreement shall become effective as to each party on the date such party executes the Agreement and shall continue in force and remain binding until said party terminates the agreement. Termination of participation in this Agreement by a party shall not affect the continued operation of this Agreement between and among the remaining parties. This agreement shall remain effective until January 31, 2059.

TERMINATION

Any Party may at any time by written resolution or notice given to the administrator to decline to participate in the provision of mutual aid. The party shall give written notice of termination of participation in this Agreement.

NOW, THEREFORE, in consideration of the covenants and obligations contained herein, the Participating City listed here, as a Participating City duly executes this Agreement this _____ day of _____, 2010.

CITY OF GRAND ISLAND

Name of City

Mayor

RESOLUTION 2010-307

WHEREAS, the Federal Highway Administration (FHWA) has advised the Nebraska Department of Roads (NDOR) that federal transportation funds (L200 funding category) have to be obligated to a project before the federal fiscal year ends on September 30th of each year; and

WHEREAS, the NDOR will allow First Class cities to enter into an inter-local agreement and keep funds accrue funds for subsequent years; and

WHEREAS, the City of Grand Island is considered a First Class city and eligible to enter into the inter-local agreement with other First Class cities to prioritize L200 projects; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the inter-local agreement with the First Class cities in the State of Nebraska for the L200 Federal Transportation funding is hereby approved.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to execute such agreement on behalf of the City of Grand Island.

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Adopted by the City Council of the City of Grand Island, Nebraska, October 26, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk