



City of Grand Island

Tuesday, July 26, 2011

Council Session

Item G16

**#2011-181 - Approving Program Agreement with Nebraska
Department of Roads for the Federal Funds Purchase Program**

Staff Contact: John Collins, Public Works Director

Council Agenda Memo

From: Scott Griepenstroh, Project Manager

Meeting: July 26, 2011

Subject: Approving Program Agreement with Nebraska
Department of Roads for the Federal Funds Purchase
Program

Item #'s: G-16

Presenter(s): John Collins, Public Works Director

Background

All agreements must be approved by the City Council.

Each year the federal government makes certain federal-aid transportation funds available to Nebraska, including funds from the Surface Transportation Program (STP) and the Highway Bridge Program (HBP) for use on State and local federal-aid transportation projects. These funds have historically been made available to the Local Public Agency (LPA) by the State for its use in funding federal-aid projects on the public streets or roads and bridges within its jurisdiction. The State intends to replace that historical practice with a purchase-sale process.

Discussion

The State is willing to obligate and expend additional federal-aid project funds for State highway and bridge projects, and is willing to assume the risk of meeting all federal-aid requirements for use of any additional federal-aid funds it obtains. The State is interested in purchasing certain federal-aid funds currently allocated to the LPA at a discount, which would cover the costs and risks incurred by the State to meet federal-aid requirements. The cash payment made by the State to the LPA will be equal to eighty percent (80%) of the total dollar amount of federal-aid funds purchased by the State from the LPA beginning in Fiscal Year 2013, except for purchased STP funds for First Class Cities, which will begin in Fiscal Year 2015.

The City of Grand Island's current annual funding portion for HBP Funds is \$7,054. The City will begin receiving its discounted cash payment of approximately \$5,643, or a portion thereof, on or about March 1, 2014.

The City of Grand Island's current annual funding portion for STP Funds is \$1,488,841. The City will begin receiving its discounted cash payment of approximately \$1,191,073 on or about March 1, 2016.

Federal Transportation Aid programs available through the Nebraska Department of Roads that are not part of the Purchase Sale Agreement include the Transportation Enhancement Program, the Highway Safety Improvement Program, Safe Routes to Schools, Rail Safety Program and Emergency Relief Program.

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 a resolution authorizing the Mayor to sign the agreement.

Sample Motion

Move to approve the resolution.

**FEDERAL-AID TRANSPORTATION FUND
PURCHASE-SALE AGREEMENT**

Nebraska Department of Roads

City of Grand Island

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

RECITALS

WHEREAS, the State and LPA have authority to enter into this Agreement and to expend funds pursuant to LB 98 of the 2011 Nebraska Legislature, signed by the Governor, which will be codified in Neb. Rev. Stat. §§ 39-1307 and 66-4,100; and,

WHEREAS, each year the federal government makes available to Nebraska certain federal-aid transportation funds, including funds from the Surface Transportation Program (STP) and the Highway Bridge Program (HBP) (formerly known as the Highway Bridge Replacement and Rehabilitation Program), for use on State and local federal-aid transportation projects; and,

WHEREAS, certain federal-aid STP and HBP funds have historically been made available to the LPA by the State for its use in funding federal-aid projects on the public streets or roads within its jurisdiction; and,

WHEREAS, the State presently intends, and LPA wishes to replace that historical practice with a purchase-sale process as further set out herein; and,

WHEREAS, the HBP fund portion of this purchase program will also apply to communities that make up the Transportation Management Areas (TMA) in Nebraska, and,

WHEREAS, for LPA to use federal funds for a federal-aid transportation project, the LPA must provide a local match and meet all federal-aid funding program requirements, some of which would not apply to a project constructed under State laws; and,

WHEREAS, LPA believes that it is not able to expend these federal-aid funds as efficiently or effectively as it would prefer because of the complexity of the processes required of LPAs on federal-aid transportation projects; and,

WHEREAS, the federal-aid funds made available to the LPA are of a type that would also be eligible for use by the State for federal-aid projects on certain State highway and bridge projects; and,

WHEREAS, the State is willing to obligate and expend additional federal-aid project funds, and the State is willing to assume the risk of meeting all federal-aid requirements for use of any additional federal-aid funds it obtains; and,

WHEREAS, the State is interested in purchasing at a discount certain federal-aid funds currently allocated to LPA, such discount to cover the costs and risks incurred by the State to meet federal-aid requirements; and,

WHEREAS, the LPA is interested in selling its available federal-aid funds to the State on the terms and conditions set out in this Agreement, including certain limitations on the use of the cash received by LPA,

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

SECTION 1. Effective Date and Term of this Agreement. This Agreement will be effective only upon the execution of this Agreement by the State. The term of this Agreement is four years, beginning on the date that the State makes the first "cash payment" to LPA. At the end of the initial term, this Agreement will automatically renew for successive one year terms, unless the LPA provides the State with notice of termination sixty or more days before the end of any term of this Agreement. The State may terminate this Agreement for any reason at any time by giving LPA advance notice 90 days prior to the date of termination.

SECTION 2. Federal Funds Eligible for Purchase. This Agreement applies to the following categories of federal-aid funds: (a) STP Funds (for both Populations less than 5,000, and Populations 5,000 to 200,000), and (b) HBP Funds. Each year the State will determine the total dollar amount of each of these funds that will be eligible for purchase (hereinafter "the Purchase Pool"), from all funds made available by the federal government for use on local projects within these categories.

SECTION 3. Calculation of LPA's share of the Federal-Aid Funds Purchase

Pools. The following will govern the annual calculation of LPA's share of the Purchase Pool established by NDOR for each category of funds. Only LPAs who enter into a Federal-Aid Transportation Fund Purchase-Sale Agreement with the State (hereinafter referred to as a "Participating" LPA, County or City) will (a) be counted for calculating the proportions described below and (b) will be eligible to receive a share of the Purchase Pools. The historical practice of allocating Federal funds to LPAs in existence prior to the effective date of this Agreement will not be considered in making any calculations under this Agreement.

A. STP Funds Calculation.

1. STP Funding for Populations 5,000 to 200,000 (cities of the first class group). Each year, the State will determine the share of the Purchase Pool attributable to each Participating City of the First Class based on the proportion of that City's total population to the population of all Participating Cities of the First Class in Nebraska. Population will be based upon the latest U.S. Census Bureau census figures.
2. STP Funding for Populations Less Than 5,000. (This category is made up of the 93 Nebraska Counties: each City of the Second Class and Village located within a County draws solely from the County's share of these funds, at the discretion of the County.) Each year, the State will determine the share of the Purchase Pool attributable to each Participating County by calculating each County's proportional share of the totals of all Participating Counties using the following factors and weights:
 - The number of rural residents as reported by the U.S. Census Bureau (25%).
 - The number of rural motor vehicles registered in the County (25%).
 - The number of centerline miles of classified (on- and off-federal system) rural roads in the County (50%).

For this section, rural is defined as the areas outside the corporate limits of any City of the First Class, City of the Primary Class or City of the Metropolitan Class.

B. HBP Funds Calculation.

Each year, the State will determine the share of the Purchase Pool attributable to each Participating County and City of the First Class, including those within the Omaha and Lincoln TMAs and the Cities of Omaha and Lincoln, based on the proportion of that LPA's square feet of bridge deck area of deficient bridges by the total number of square feet of bridge deck area of deficient bridges of all Participating LPAs in this category.

SECTION 4. Cash Payment Calculation and Payment Date. The cash payment to be made by the State to LPA will be equal to eighty percent (80%) of the total dollar amount of federal-aid funds purchased by the State from LPA beginning in Fiscal Year 2013. The cash payment will be made to LPA on or about March 1 of each year beginning on or about March 1, 2014.

Based on the project cost estimates and anticipated funding levels shown in Exhibit A – Transition Plan for First Class City STP Projects, which is hereby incorporated herein by this reference, there will not be any STP funds for purchase by the State until FY 2015. Therefore, the first payment to First Class City LPA's for purchased STP funds is anticipated to be on or about March 1, 2016.

SECTION 5. Limitations on LPA's Use of Cash Payment. The portion of the cash payment received by LPA from the State for the purchase of STP funds shall be used solely for the cost of construction, reconstruction, maintenance, or repair of public highways, streets, roads, or bridges and facilities, appurtenances, and roadway structures deemed necessary in connection therewith. The portion of the cash payment received by LPA from the State for the purchase of HBP funds shall be used solely for the construction, reconstruction, improvement, repair or maintenance of LPA public road bridges. The LPA's use of the cash payment for "maintenance," under the prior two sentences, shall be limited to maintenance projects that preserve, restore or correct

major roadway or bridge conditions and the cash payment will not be used for LPA's routine maintenance activities.

The phrase "facilities, appurtenances, and roadway structures deemed necessary in connection therewith," as used in the first sentence of this section, includes medians; accessory lanes; steps; handrails; sidewalks, adjoining trails, paths and related structures; drainage facilities such as storm sewers, curb or grate inlets, culverts, ditches, and other drainage structures; guardrails; lighting facilities; driveways; retaining walls and other similar facilities that are necessary or desirable and directly related to the proper design of streets, roads and highways.

LPA shall segregate the cash payment and shall separately account for the STP and HBP portions of any cash payment received from the State within its accounting system. The LPA may accumulate and invest the STP or HBP portions of the cash payment it receives so long as the earnings from such investments are used for the applicable purposes provided in this section. The cash payment funds may be used for any phase of an allowable project. The phases of an allowable project include, but are not limited to: 1) preliminary engineering, 2) right-of-way acquisition, 3) utility relocations, 4) construction, and 5) construction engineering.

All roads and bridges shall be designed and constructed to meet the minimum standards of the Nebraska Board of Public Roads Classifications and Standards.

SECTION 6. Annual Certification of Use of Cash Payment and Action Required for Improper Use of Funds. LPA shall file an annual certification with the State, using a copy of the attached Annual Certification Form (Exhibit B), confirming that it has used the cash payment it received solely for the purposes allowed under this Agreement. The annual certification shall be filed with the Local Projects Division of the State and the form shall be submitted by LPA within 90 days after the end of LPA's fiscal year. Further, LPA agrees to immediately report to State any use of the cash payment for a nonconforming use under this Agreement. Within 60 days of discovery of any improperly diverted funds, LPA shall provide the State with a repayment plan for LPA to replace the improperly diverted funds by depositing an equivalent amount of other local funds into the cash payment account. If LPA fails to repay the funds, or fails to provide a repayment plan that is acceptable to the State, the State will withhold LPA's

future annual payments under this Agreement until LPA repays all improperly diverted funds. If LPA fails to meet the requirement of the prior sentence, the State may terminate this Agreement and redistribute any funds it holds on behalf of LPA.

SECTION 7. Additional Terms and Conditions. The parties agree to the following additional terms and conditions:

- A. Federal Legislation. The LPA authorizes the State to take such steps as are deemed by the State to be necessary or advisable for the purpose of securing the benefits of the current Federal-Aid Surface Transportation Act for this Agreement. The terms of this Agreement are subject to changes in federal legislation. The State reserves the right to (1) change the dollar amount of federal-aid funds the State purchases from LPA, or (2) terminate this Agreement, in the event such changes in federal law significantly impacts, nullifies or renders impractical the continuing purchase of LPA's federal-aid funds.
- B. Availability of State Funds. The total federal-aid funds purchased by the State under this Agreement are contingent upon the availability of State funds to make the purchase. If, in the judgment of the State, sufficient State funds are not available to make the payments under this Agreement, the State may (1) reduce the dollar amounts of federal-aid funds the State purchases from LPA, or (2) terminate this Agreement without additional cost, responsibility or obligation to LPA.
- C. Application of Purchased Funds. The LPA understands that the State, at its sole discretion, may use the federal-aid funds purchased from LPA for any federally eligible purpose or project within the State.
- D. Audits. The LPA agrees to make its records and books available at any time to representatives or designees of the State for audit.
- E. Applicable Law. The LPA agrees to follow all applicable laws governing the transaction set out in this Agreement and the use of the State payment for local street, road or bridge projects.

- F. Local Ordinances and Resolutions. The LPA agrees to adopt all necessary ordinances and/or resolutions and to take such legal steps as may be required to give full effect to the terms of this Agreement.
- G. Maintenance of and Commitments for Projects Constructed with Federal Funds. This Agreement does not relieve the LPA of maintaining, at its own expense, all transportation projects under its jurisdiction which have used, or will use federal funds in the future (see, 23 U.S.C. § 116). The LPA agrees to make provisions each year for the maintenance costs involved in properly maintaining all of its federal-aid routes and facilities. The LPA shall also be solely responsible for any required environmental commitments, including monitoring, and any other commitments made after the construction of projects on its federal-aid routes which have used, or will use federal funds in the future. In the event that the federal government withholds funds from the State related to LPA's failure to meet its obligations under this section, LPA agrees that the State, in addition to all other remedies, may withhold its future cash payments under this agreement until all funds are repaid.
- H. Repayment of Federal Funds For Projects Not Completed. If LPA presently has a federal-aid project under development that has not been constructed, but for which federal funds have been received by LPA, LPA has certain time periods under federal law to complete construction of such project, or LPA will be required to repay all federal funds it has been reimbursed for the project. (See 23 C.F.R. § 630.112(c).) In the event that LPA fails to complete construction of such a project, LPA shall repay the federal government, or the State on its behalf, an amount equal to all federal-aid funds previously reimbursed to LPA expended for the project. In the event that LPA fails to repay the federal government or the State, LPA agrees that the State, in addition to all other remedies, may withhold its future cash payments to LPA under this Agreement until all funds are repaid.

- I. Bridges. LPA is responsible for the safety inspection and evaluation of all public street or road bridges under its jurisdiction. These responsibilities include inspections, reports, load ratings, quality control, maintaining bridge files, and all other requirements of the National Bridge Inspection Standards (NBIS). LPA shall provide to the State copies of all bridge plans, hydraulic design reports, load rating reports and inspection reports for all bridges under its jurisdiction. If LPA fails to carry out its duties concerning the NBIS, the State will withhold LPA's future annual payment under this Agreement until LPA complies with all NBIS requirements. If LPA fails to meet the requirements of the prior sentence, the State may terminate this Agreement and redistribute any funds it holds on behalf of LPA.
- J. Right-of-Way. The LPA is advised to use the "Uniform Act" and keep good records when purchasing right of way for a project. The "Uniform Act" is the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and administrative regulations contained in 49 C.F.R. § 24, entitled "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs."
- K. No Third-Party Benefits. No third-party beneficiaries are intended to be created by this Agreement, nor do the parties herein authorize anyone not a party to this Agreement to maintain a suit for damages pursuant to the terms or provisions of this Agreement.
- L. Fair Employment Practices Act. The LPA agrees to abide by Nebraska Fair Employment Practices Act, as provided by Neb. Rev. Stat. §§ 48-1101 through 48-1126, which is hereby made a part of and included in this Agreement by reference.

IN WITNESS WHEREOF, the LPA and State hereto have caused this Agreement to be executed by their proper officials thereunto duly authorized as of the dates below indicated.

EXECUTED by the LPA this _____ day of _____, 2011.

WITNESS: _____ CITY OF GRAND ISLAND

LPA Clerk

By _____

Title

EXECUTED by the State this _____ day of _____, 2011.

STATE OF NEBRASKA
DEPARTMENT OF ROADS

By

Title

Federal Fund Purchase Program First Class City Transition Plan

Transition

Based on the general consensus observed by the Nebraska League of Municipalities and NDOR Local Projects Division, the transition into the Federal Fund Purchase Program for the First Class Cities (L200) should be to Federally Fund all projects listed in the Transition Plan for the following reasons:

1. All Projects in Exhibit A have Program Agreements where NDOR and the LPA agreed to build/fund the projects.
2. Nearly all projects within Exhibit A have Federal Funds obligated and most have expended Federal Funds. Failure to Federally fund these projects (through construction) would likely result in the repayment of Federal funds by the LPA's.
3. The projected cash payments to the First Class Cities will not provide adequate funding to advance the major projects within the FHWA allotted timeframes.
4. First Class Cities recently formed an executive committee to represent the collective group be responsible for recommending project selection, etc. At the meeting in March 2011, new projects were selected primarily based on the LPA's STP "point" balance, which is essentially the LPA's turn for the Federal Funds. By funding the selected projects, NDOR is essentially allowing each of the First Class Cities their turn at the Federal Funds.
5. Federally funding all of the projects listed in Exhibit A creates the fairest transition for the most LPA's. Local Projects Division has discussed the transition with each city. The vast majority are generally in favor of the Federal Fund Purchase Program, but only if their programmed project is Federally funded.

Estimated Schedule

The schedule requirements of all projects shown in the Transition Plan are such that they should be completed near the end of FY 2014. However the level of spending authority and projects estimates over the next couple years could vary and may require Federal obligation beyond FY 2014 in order to avoid a repayment situation as described in (2) above. The program of projects will be closely monitored during the transition and adjustments will be made based on project delivery.

Conditions

The following conditions apply to the transition plan described above:

1. LPA's must prosecute the listed projects in a timely fashion. Failure to do so could result in the withdrawal of the project from this transition plan. LPA's with projects withdrawn will be required to complete the project with local funds or repay the federal funds that have been reimbursed. In the case of the former, Federal law with prescribed time limits shall apply.

Federal Fund Purchase Program First Class City Transition Plan

2. Any substantial changes of scope requiring additional funds shall not delay the project substantially and must be approved by NDOR or locally funded by the LPA.
3. Based on current estimates, the transition should be complete by the end of FY 2014, but changes to project estimates (including supplemental engineering agreements and construction change orders) or funding levels may affect the schedule of this transition. For example:
 - a. If project costs go up or funding levels go down, the transition may extend into FY 2015.
 - b. If the opposite occurs, the transition may be completed earlier.
4. NDOR will purchase the balance of unused STP funds in the fiscal year the transition is completed and each subsequent year after according to the Federal Funds Purchase Program agreement. For example:
 - a. If the transition is completed in FY 2014 with \$1m of unused STP funds remaining, NDOR will purchase the \$1m of STP based on the discounted rate of \$0.80 per Federal dollar and distribute the \$800,000 among the First Class Cities with an executed FTFP agreement on or about March 1, 2015.
 - b. If funding levels decrease, project costs increase, or conditions beyond the control of the LPA cause a project to be delayed beyond FY 2014, the purchase pool for FY 2015 will be reduced by NDOR in order to accommodate obligated project expenses.

Summary

In summary the proposal for the First Class City Federal Fund Purchase Program Transition would be to fund the finite list of projects with projected schedule/cost estimates shown in the following pages to be substantially completed near the end of FY 2014.

Close communication with LPA's and NDOR officials will be required during this transition to allow for the timely development of State projects necessary for the Federal Funds Purchase Program.

Transition Projects for First Class Cities

STP Projects

Control Number	Project Number	Project Name
12692	STPAA-6044(2)	California Ave., Sioux City
12699A	STPAA-6044(2)	1st St., Cede Ave., Hawthorne Ave., Cedar
12938	URB-6217(5)	4th Corso In Nebraska City
13005	URB-6108(1)	Beatrice Citywide Resurfacing
13159	URB-6217(4)	4th Corso Viacross, Nebraska City
13161	LRB-6763(1)	Karel Kay Blvd, Bader - H Street, Seward
21353	STPAA-5675(2)	4th St., Fremont
22113	LRD-5406(1)	4th Ave., 23rd St., Hillcrest, Plattsmouth
22429	LRB-5613(3)	1st Ave., Broad St., Fremont
22507	URB-5462(1)	Jackson St, 3rd - River Rd, Blair
23011	TRC	Blair Bypass - South Segment
31830	STPAA-6708(1)	10th St - Main to Windsor
31875	URB-5001(4)	25th St. Turn US 275 to Benjamin
31890	URB-5059(6)	3rd Ave 8th to 9th
31531	URB-6709(2)	Windsor Street from 4th Ave to 5th St
32074	URB-5314(20)	E 17th Avenue Drive - Fiveview
32081	URB-5305(10)	Dakota Ave. 25th - 37th
32184	URB-5314(2)	Riverside Dr., 27th to 29th, S. Sioux City
32186	URB-5306(8)	17th St. US 17 - Lake Ave., S. Sioux City
32187	URB-6067(2)	E 17th Ave, 24th - 30th St, Columbus
32189	URB-6957(1)	Various Locations in Schuyler
40352A	URB-30-4153(1)	US-70 Drainage Improvement, Grand Island
42396	STPAA-6516(1)	14th St., Elm Ave., 1st Ave., Hastings
4252a	URB-5521(1)	E. 14th Ave., US 28, N 1st Ave., Hastings
42578	URB-5514(2)	9th St., Turner Ave., 2nd Ave., Hastings
42531	URB-5515(8)	Multiple Locations - Rural Hastings
42595	LRD-6312(2)	13th Street, Blackburn - DeSoto, York
42597	LRB-6203(4)	Division Ave., Marquis - US 24, York
42701	LRB-5509(1)	Baltimore Ave. 12th - 14th St., Hastings
42705	LRB-5510(1)	9th St., Burlington - 1st Ave., Hastings
42705	LRD-5409(2)	Various Locations in Eagle Bluff
42707	LRB-5433(5)	Capitol Ave., Webb - Broadwell, Grand Island
51342	LRB-6263(1)	South Potawatomi Ave., Alliance
51449	URB-5701(8)	Broadway, 1st - 20th St., Scottsbluff
51450	URB-5235(3)	Eisenhower Avenue, 18th - 25th Street
51454	URB-5726(1)	27th St. Ave. - Hwy 26, Scottsbluff
51456	URB-5563(8)	10th St, Hickory - Osage, Sidney
51480	URB-5335(2)	For Sidney Rd, US 20 - 11th Ave, Sidney
51486	URB-5703(2)	Ave F, Overland - 27th St., Scottsbluff
51489	URB-5723(8)	10th St, Crescent Dr - River Bridge, Gettysburg
51490	URB-6254(7)	10th St, Fox Battle - Black, A. Landon
51499	URB-6351(2)	Jackson St., Sidney
51547	URB-6263(1)	17th St., Madison - Van Dusen, Lexington
51552	URB-6491(1)	West 13th St. East 14th - West 1st, Ogallala
51554	URB-6352(1)	6th St, Grant - Taft, Lexington
71183	URB-6154(1)	1st St., Morris Ave - Airport Rd, McCook
71184	URB-6154(1)	11th Ave, Victoria - Jurgens, Holdrege
71151	URB-6158(1)	E 17th St, H St - Country Club Dr, McCook
71152	URB-6805(1)	18th Ave, Baltimore-West Ave, Holdrege

* The first phase of the Blair Bypass was selected to receive \$2m of CTF funds from the First Class Cities 2. The project selection meeting in March 2011 in addition to the \$844k of CTF monies. The CTF funds will be available for phases obligated through FY 2014. The City of Blair will be required to identify other funding sources for remaining phases beyond FY 2014. The project will be prioritized from the Federal Allocation to be completed.

Transition Projects for First Class Cities

BR Projects

Control Number	Project Number	Project Name
12566	BAO-7676(22)	13th St./Elva River Bridge, Gate

RRZ/TMT/STP Projects

Control Number	Project Number	Project Name
12566	BAO-7676(22)	13th St./Elva River Bridge, Gate
12566	BAO-7676(22)	13th St./Elva River Bridge, Gate
12566	BAO-7676(22)	13th St./Elva River Bridge, Gate
12566	BAO-7676(22)	13th St./Elva River Bridge, Gate
12566	BAO-7676(22)	13th St./Elva River Bridge, Gate

Safety Projects

Control Number	Project Number	Project Name
12566	BAO-7676(22)	13th St./Elva River Bridge, Gate
12566	BAO-7676(22)	13th St./Elva River Bridge, Gate

STP Relinquishment Projects

Control Number	Project Number	Project Name
12566	BAO-7676(22)	13th St./Elva River Bridge, Gate
12566	BAO-7676(22)	13th St./Elva River Bridge, Gate

ANNUAL CERTIFICATION FORM

_____, hereinafter "Local Public Agency" or "LPA"

Period of Time Covered by Certification

First Year—Date of Receipt of First Cash Payment to Date of this Certification

Subsequent Years—Date of Last Certification to Date of this Certification

This certification is given by LPA pursuant to the requirements of the second paragraph of Neb. Rev. Stat. § 39-1307 (as this section was amended by Section 1 of LB98, 2011 Legislative Session), and as required by Section 5 of the Federal-Aid Transportation Fund Purchase Sale Agreement (the Agreement) between the State of Nebraska Department of Roads (State) and LPA.

LPA has received cash payment funds from the State according to the terms of the Agreement. LPA agreed in Section 5 of the Agreement to restrict LPA's use of the cash payment funds to certain specified uses. (See the language of Section 5 set out below). Section 6 of the Agreement requires LPA to make this certification annually.

The undersigned hereby certifies that he or she:

- (1) Has been properly authorized by LPA's governing body to make this certification on behalf of the LPA.
- (2) Has sufficient information to accurately, fully and fairly make this certification.
- (3) Is familiar with the terms of the Agreement between the LPA and the State, including particularly, the limitations on LPA's use of the cash payment funds set out in Section 5 of the Agreement.
- (4) Is familiar with LPA's accounting systems and bank and investment accounts and knows (a) where the cash payment funds have been deposited or invested, and (b) how the cash payment funds have been managed and accounted for within LPA's financial records.
- (5) Is familiar with the details of all projects or activities of LPA for which funds in the cash payment account have been used by LPA.
- (6) Believes, that to the best of his or her knowledge and belief, (1) LPA's use of the cash payment funds fully and fairly complies with the requirements of Section 5 of the Agreement, and (2) LPA has segregated the cash payment it received from the State and has separately accounted for any STP and HSP portions of the cash payment, within its accounting system.

Date _____

Signature _____

Printed name _____

Title _____

SECTION 5. Limitations on LPA's Use of Cash Payment.

The portion of the cash payment received by LPA from the State for the purchase of **STP funds** shall be used solely for the cost of construction, reconstruction, maintenance, or repair of public highways, streets, roads, or bridges and facilities, appurtenances, and roadway structures deemed necessary in connection therewith. The portion of the cash payment received by LPA from the State for the purchase of **HBP funds** shall be used solely for the construction, reconstruction, improvement, repair or maintenance of LPA public road bridges. The LPA's use of the cash payment for "maintenance," under the prior two sentences, shall be limited to maintenance projects that preserve, restore or correct major roadway or bridge conditions and the cash payment will not be used for LPA's routine maintenance activities.

The phrase "facilities, appurtenances, and roadway structures deemed necessary in connection therewith," as used in the first sentence of this section, includes medians; accessory lanes; steps; handrails; sidewalks, adjoining trails, paths and related structures; drainage facilities such as storm sewers, curb or grate inlets, culverts, ditches, and other drainage structures; guardrails; lighting facilities; driveways; retaining walls and other similar facilities that are necessary or desirable and directly related to the proper design of streets, roads and highways.

LPA shall segregate the cash payment and shall separately account for the STP and HBP portions of any cash payment received from the State within its accounting system. The LPA may accumulate and invest the STP or HBP portions of the cash payment it receives so long as the earnings from such investments are used for the applicable purposes provided in this section. The cash payment funds may be used for any phase of an allowable project. The phases of an allowable project include, but are not limited to: 1) preliminary engineering, 2) right-of-way acquisition, 3) utility relocations, 4) construction, and 5) construction engineering.

All roads and bridges shall be designed and constructed to meet the minimum standards of the Nebraska Board of Public Roads Classifications and Standards.

RESOLUTION 2011-181

WHEREAS, each year federal government makes available to Nebraska certain federal-aid transportation funds, including funds from the Surface Transportation Program (STP) and the Highway Bridge Program (HBP) (formerly known as the Highway Bridge Replacement and Rehabilitation Program), for use on State and local federal-aid transportation projects; and

WHEREAS, certain federal-aid STP and HBP funds have historically been made available to the LPA by the State for its use in funding federal-aid projects on the public streets or roads within its jurisdiction; and

WHEREAS, LPA and the NDOR wish to enter into an agreement to provide for the purchase, at a discount, certain federal-aid dollars currently made available to the LPA, and

WHEREAS, the LPA is interested in selling its available federal-aid funds to the State on the terms and conditions set out in this agreement, including certain limitation on the use of the cash received by the LPA; and

WHEREAS, the Council has reviewed the agreement and has determined that it is in its best interest to enter into the agreement in the attached form.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized to sign the attached Federal Funds Purchase Program Agreement between the City of Grand Island and the Nebraska Department of Roads.

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Adopted by the City Council of the City of Grand Island, Nebraska, July 26, 2011.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
July 21, 2011	☐ City Attorney