



# City of Grand Island

Tuesday, December 20, 2011

Council Session

## Item G14

**#2011-373 - Approving Maintenance Agreement No. 12 Renewal  
with the Nebraska Department of Roads for Calendar Year 2012**

Staff Contact: John Collins, Public Works Director

# Council Agenda Memo

**From:** Shannon Callahan, Street Superintendent

**Meeting:** December 20, 2011

**Subject:** Approving Maintenance Agreement No. 12 Renewal with the Nebraska Department of Roads for Calendar Year 2012

**Item #'s:** G-14

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

## Background

Each year the City and the Nebraska Department of Roads enter into an agreement for the maintenance of Highways within the City Limits. The certification that calendar year 2011 work was performed by the City will be presented at the January 10, 2012 council meeting. The agreement for 2012 has been prepared. The content and scope of the agreement is the same as that of previous years, with the only change being the addition of the common turn lane on US Highway 30 (2<sup>nd</sup> Street).

## Discussion

The maintenance responsibilities by statute are detailed in Exhibit A of the agreement. Calculations for payments are detailed in Exhibit B. Surface maintenance and snow removal responsibilities from an operational efficiency stand point are detailed in Exhibit C. The net result of this exchange of services for 2012 will be a payment to the City of \$40,814.50.

## 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**

Public Works Administration recommends that the Council pass a Resolution approving Maintenance Agreement No. 12 for calendar year 2012.

## **Sample Motion**

Move to approve Maintenance Agreement No. 12 for calendar year 2012.

Maintenance Agreement Between  
The Nebraska Department of Roads  
And The Municipality of GRAND ISLAND  
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**AGREEMENT**

**THIS AGREEMENT**, made and entered into by and between GRAND ISLAND hereinafter referred to as the "City"; and the State of Nebraska, Department of Roads, acting by and through its Director-State Engineer, hereinafter referred to as the "State" and this agreement is to have an effective date of January 1, 2012.

**WITNESSETH:**

**WHEREAS**, Nebraska Revised Statutes, relating to highways, set out the responsibilities of the State, counties and incorporated municipalities in the establishment of uniform standards of design, construction, operation and maintenance of said highways, and

**WHEREAS**, the State and the City wish to enter into an agreement relative to the maintenance of said highways, and

**WHEREAS**, Neb. Rev. Stat. § 39-1339, § 39-1344, § 39-1372, § 39-2105, § 60-6,120 and § 60-6,121, set out in detail the maintenance responsibilities of the State and the City; said responsibilities shall be incorporated herein by this reference. Therefore, the parties hereto understand that the maintenance responsibilities of the City and State under the above referenced laws are as set forth by Exhibit "A" attached hereto.

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

**SECTION 1a:** The State agrees to perform the maintenance on the above mentioned highways consisting of surface maintenance of those portions of municipal extensions of all rural highways within municipalities of the Metropolitan, Primary and First Class, the design of which exceeds the design of the rural highways leading into the municipality. The State shall maintain the entire traveled portion, not including parking lanes thereon, of the municipal extension and the City shall reimburse the State as set out in Section 8a of this agreement for maintaining that portion of said municipal extension that has been designated by statute as the City's responsibility.

**SECTION 1b:** The State agrees to perform the maintenance on the above mentioned highways consisting of surface maintenance of those portions of municipal extensions of all rural highways

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within municipalities of the Second Class and Villages, the design of which exceeds the design of the rural highways leading into the municipality. The State shall maintain the entire traveled portion, including parking lanes thereon, of the municipal extension and the City shall reimburse the State as set out in Section 8a of this agreement for maintaining that portion of said municipal extension that has been designated by statute as the City's responsibility.

**SECTION 1c.** The City agrees to perform the maintenance on the above mentioned highways consisting of surface maintenance of those municipal extensions of all rural highways, and the State shall reimburse the City as set out in Section 8b of this agreement for the maintenance of that portion of said municipal extension that has been designated by statute as the State's responsibility. No allowance will be made for turning lanes or for lanes used on a part-time basis as parking lanes, or other auxiliary lanes within municipalities of the Metropolitan, Primary and First Class. No allowance will be made for turning lanes or other auxiliary lanes except parking lanes within municipalities of the Second Class and Villages.

**SECTION 1d.** Special provisions in which the State shall perform partial maintenance and the City shall perform partial maintenance on the same municipal extension(s) shall be set out by addendum, in detail in Exhibit "B", referred to in Section 5 of this agreement. Said addendum to include specific responsibilities of the State and the City and dollar amounts allowed for performance of said work by the State and by the City.

**SECTION 2.** Maintenance that may be required by "Acts of God" is not covered by this agreement but shall be performed under special agreement in each specific case.

**SECTION 3.** Repair or reconstruction projects beyond the scope of normal surface maintenance, which are let to contract through the State's contract letting procedure, are considered to be beyond the scope of this Agreement. Normal surface maintenance shall include, but is not limited to the following maintenance activities: Crack Seal, Joint Seal, Fog Seal, Seal Coats, Spot patching, Pothole repair, Sweeping, Surface Milling, Concrete patching, miscellaneous full-depth concrete replacement, or Preventive maintenance. In order to facilitate repair or reconstruction of projects which are beyond the scope of normal surface maintenance, the City shall submit, on an annual basis, a long-range plan (5 years) for such projects to the

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State. In the event the State and/or the City should desire to do such work, the parties hereto may enter into a separate agreement for the appropriate cost sharing.

**SECTION 4.** It is further understood that normal surface maintenance and maintenance of appurtenances by the City shall include the identifying, locating, and marking with flags of all buried municipally owned and state owned utility facilities that occupy Nebraska Department of Roads right-of-way. The above mentioned utility facilities are those that service highways referenced in this agreement and properties adjacent to the above referenced highways and will be identified, located, and marked with flags upon the request of the State or the One Call Notification Center. Identification of buried utility facilities shall follow the provisions of the One Call Notification System Act, §76-2301 through § 76-2330. (NE Rev. Stat.)

**SECTION 5.** Only those municipal extensions of rural highways shown on the attached list marked as Exhibit "C" and hereby made a part of this agreement shall be covered by this agreement; however, additions and deletions may be made to Exhibit "C" by mutual written agreement of the parties hereto.

**SECTION 6.** The above mentioned highways shall be inspected periodically, at least quarterly, by the Department's District Engineer or the District Operations and Maintenance Manager, or their authorized representatives, and by the City's Director of Public Works or his authorized representative to review the adequacy of the maintenance work which has been performed.

**SECTION 7.** Materials used by the City in the performance work hereunder shall be selected by mutual agreement of the parties hereto.

**SECTION 8a.** If Section 1a or 1b of this agreement is incorporated herein, the City will pay to the State the sum of \$ per Exhibit "B" per lane mile. The above cost figures shall include all labor, equipment, tools, materials and supplies used or furnished by the State in the performance of the work on the above mentioned highways. Fractional miles or fractional months, if any, will be used in computing the amount payable in this agreement.

**SECTION 8b.** If Section 1c of this agreement is incorporated herein, the State will pay the City the sum of \$1,900.00 per lane mile. The above cost figure price per lane mile shall include all labor, equipment, tools, materials and supplies used or furnished by the City in the performance

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of such work. Fractional miles or fractional months, if any, will be used in computing the amount payable in this agreement.

**SECTION 8c.** If Section 1d of this agreement is incorporated herein, the costs of partial maintenance by the State and by the City computed by fractional mile or fractional month and as set out in detail in the addendum, Exhibit "B", shall be offset to determine the amount, if any, to which one party or the other may be entitled after said offset.

**SECTION 8d.** Payment under this agreement will be made on an annual basis after December 31, as soon as possible after submission by the State to the City or the City to the State, as the case may be, of a Certificate approved by the District Engineer of the State, providing all work has been done during the period for which payment is made in full conformity with the agreement.

**SECTION 9.** Upon the failure of the City to perform any of the work named herein under the terms of this agreement, the Director or District Engineer of the State may, with concurrence of the City's Director of Public Works, do and perform such work or cause it to be done and performed and may retain from any monies then due to the City or thereafter becoming due, any such amount as is required for the completion of such work, provided, however, that this paragraph shall not be construed to relinquish any rights of action which may accrue in behalf of either party as against the other for any breach of agreement.

**SECTION 10.** It is further understood that all persons working on such highways are employees of the State, City or of contracted third parties. All contracts and agreements made by the City with third parties for the performance of any work to be done under this agreement shall be subject to the terms of this agreement and shall comply with all State laws and requirements relating to construction and maintenance contracts.

**SECTION 11.** The City agrees to keep existing and new right-of-way free of encroachments, except those authorized by permit from the City and approved by the State and Federal Highway Administration (FHWA).

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**SECTION 12.** The City agrees to abide by the provisions of the Nebraska Fair Employment Practices Act, as provided by Neb. Rev. Stat. § 48-1101 through § 48-1126.

**SECTION 13.** The parties do further agree, anything to the contrary herein notwithstanding, that the Director-State Engineer of the State of Nebraska, either in his individual or official capacity, shall not be responsible or liable in any manner to the City or to any other person or persons whatsoever for any claim, demand, action or causes of action of any kind or character arising out of or by reason of the execution of this agreement or the negligent performance and completion of the work and improvements provided for herein by the City or its agents or arising out of any contract let by the City for the performance of any of the work provided herein.

**SECTION 14.** The City indemnifies, saves and holds harmless the State and all of its departments, agents, and employees of and from any and all claims, demands, actions or causes of action of whatsoever nature or character arising out of or by reasons of the execution or performance of the work provided for herein by the City or its agents and further agrees to defend at its own sole cost and expense any action or proceeding commenced for the purposes of asserting any claim of whatsoever character arising hereunder as a result of work performed by the City or its agents.

**SECTION 15.** This agreement shall not be construed as a relinquishment by the State of any powers or control it may have over the herein before described highways.

**SECTION 16.** This agreement shall terminate December 31, 2012 , except that it may be renewed for one year at a time and each January 1 thereafter for up to four additional years by written concurrence of both parties hereto. After five years a new agreement must be executed.



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The lane mile payment provided in Section 8 hereof may be renegotiated to the satisfaction of both parties at any renewal date.

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

EXECUTED by the City this 20<sup>th</sup> day of December, 2011

ATTEST: CITY OF GRAND ISLAND

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

EXECUTED by the State this \_\_\_\_\_ day of \_\_\_\_\_, 20

STATE OF NEBRASKA  
DEPARTMENT OF ROADS

\_\_\_\_\_  
District Engineer

**MAINTENANCE OPERATION AND RESPONSIBILITY**  
**Municipal extensions and connecting links**  
**(Streets Designated Part of the State Highway System excluding Freeways)**

**Maintenance Responsibility**  
 Neb. Rev. Stat. § 39-2105

<u><b>Maintenance Operation</b></u> Neb. Rev. Stat. § 39-1339	<u><b>Metropolitan</b></u> <u><b>Cities</b></u> (Omaha)	<u><b>Primary</b></u> <u><b>Cities</b></u> (Lincoln)	1 <sup>st</sup> Class Cities	2 <sup>nd</sup> Class Cities & Villages
	<b>Department</b>	<b>Dept.</b>	<b>Dept.</b>	<b>Dept.</b>
Surface maintenance of the traveled way equivalent to the design of the rural highway leading into municipality.	City	City	City	City
Surface maintenance of the roadway exceeding the design of the rural highway leading into the municipality including shoulders and auxiliary lanes.	City	City	City	Dept.
Surface maintenance on parking lanes.	City	City	City	City or Village
Maintenance of roadway appurtenances (including, but not limited to, sidewalks, storm sewers, guardrails, handrails, steps, curb or grate inlets, driveways, fire plugs, or retaining walls)	City	City	City	City or Village
Mowing of the right-of-way, right-of-way maintenance and snow removal.	City	City	City	City or Village
Bridges from abutment to abutment, except appurtenances.	Department	Dept.	Dept.	Dept.

**Maintenance Responsibility**  
 Neb. Rev. Stat. § 60-6, 120 & § 60-6, 121

<u><b>Maintenance Operation</b></u> Neb. Rev. Stat. § 39-1339	<u><b>Metropolitan</b></u> <u><b>Cities</b></u> (Omaha)	<u><b>Primary</b></u> <u><b>Cities</b></u> (Lincoln)	1 <sup>st</sup> Class Cities > 40,000	1 <sup>st</sup> Class Cities < 40,000	2 <sup>nd</sup> Class Cities
Pavement markings limited to lane lines, centerline, No passing lines, and edgelines on all connecting links except state maintained freeways	City	City	City	Dept.	Dept.
Miscellaneous pavement marking, including angle and parallel parking lanes, pedestrian crosswalks, school crossings, etc.	City	City	City	City	City
Maintenance and associated power costs of traffic signals and roadway lighting as referred to in original project agreement.	<i>this section intentionally left blank please check original project agreement for responsibility designation</i>				
Procurement, installation and maintenance of guide and route marker signs	City	City	City	Dept.	Dept.
Procurement, installation and maintenance of regulatory and warning signs.	City	City	City	Dept.	Dept.

EXHIBIT "B"

CITY OF GRAND ISLAND

Pursuant to Sections 1a, 1b, 1c, 8a, 8b, 8c and 8d of the Agreement and to Exhibit "C" made a part of this Agreement through reference, the STATE agrees to pay to the CITY the sum of \$1,900.00 per lane mile for performing the surface maintenance on those lanes listed on the attached copy of Exhibit "C".

From Exhibit "C" it is determined that the STATE'S responsibility for surface maintenance within the City Limits is 29.98 lane miles.

$29.98 \text{ lane miles} \times \$1,900.00 \text{ per lane mile} = \$56,962.00$  due the CITY for surface maintenance.

From Exhibit "C", it is determined that snow removal within City Limits is the responsibility of the CITY. The CITY agrees to pay the STATE the sum of \$375.00 per lane mile for snow removal on those sections of highway within City Limits as listed on the attached copy of Exhibit "C".

From Exhibit "C" it is determined that the City's responsibility for snow removal within the City Limits is 43.06 lane miles.

$43.06 \text{ lane miles} \times \$375.00 = \$16,147.50$  due the STATE for snow removal.

$\$56,962.00 - \$16,147.50 = \$40,814.50$  due the CITY and payable as per Section 8d.

EXHIBIT "C"

City of GRAND ISLAND

STATE OF NEBRASKA  
DEPARTMENT OF ROADS

RESPONSIBILITY FOR SURFACE MAINTENANCE  
OF MUNICIPAL EXTENSIONS

NEB. REV. STAT. 39-1339  
and NEB. REV. STAT. 39-2105

DESCRIPTION	HWY. NO.	REF POST		LENGTH IN MILES	TOTAL DRIVING LANES	TOTAL LANE MILES	RESPONSIBILITY	
		FROM	TO				STATE	CITY
West City Limits Jct. W/ US281	N-2	354.45	356.06	1.61	4	6.44	*3.22	*3.22
West City Limits W/ Johnstown Rd	US-30	310.04	312.47	2.43	2	4.86	*4.86	
Johnstown Rd./Greenwich St	US-30	312.47	314.85	2.38	4	9.52	**4.76	4.76
Greenwich St/end of 1-Way	EB 30	314.85	316.07	1.22	3	3.66	**2.44	1.22
Greenwich St/end of 1-way	WB 30	314.85	316.07	1.22	3	3.66		3.66
End 1-Way NE Corporate limits	US-30	316.07	317.68	1.61	4	6.44	**3.22	3.22
SW City Limits/Wildwood Dr/No. Jct. W/281/Husker Hw	US-34	228.89	231.16	2.27	4	9.08	*9.08	
US-281 Jct. 50'W of UPRR/ Leave Corp Limits	US-34	231.16	231.49	0.33	2	0.66	*0.66	
Re-enter Corp Limits-Begin Channelized Int. for Locust St	US-34	232.53	232.77	0.24	2	0.48	*0.48	
Begin To End Channelized Intersection for Locust St.	US-34	232.77	233.25	0.48	4	1.92	*0.96	*0.96
End Channelized Intersection for Locust St to East City Limits	US-34	233.25	233.28	0.03	2	0.06	*0.06	
Jct. 34 & 281 No. Corporate Limits	US 281	67.45	67.94	.49	4	1.96	*1.96**	
		68.20	72.60	4.40	4	17.60	*17.60**	
<b>TOTALS</b>						<b>66.34</b>	<b>49.30</b>	<b>17.04</b>

\*\*29.98 MILES WHERE NDOR PAYS THE CITY FOR SURFACE MAINTENANCE

\*43.06 MILES WHERE NDOR PERFORMS SNOW REMOVAL—CITY PAYS NDOR

RESOLUTION 2011-373

WHEREAS, on December 22, 1992, the City of Grand Island approved and entered into Maintenance Agreement No. 12 with the State of Nebraska Department of Roads with respect to the maintenance of state highways within the corporate limits of Grand Island; and

WHEREAS, this agreement requires annual renewal by both parties thereto; and

WHEREAS, it is in the best interest of the City of Grand Island to approve Maintenance Agreement No. 12 to be effective January 1, 2012.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that Maintenance Agreement No. 12 between the City and the State of Nebraska Department of Roads for the term January 1, 2012 through December 31, 2012 is hereby approved; and 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, December 20, 2011.

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

Attest:

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

Approved as to Form    ☐ \_\_\_\_\_  
December 14, 2011     ☐ City Attorney