

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
MAY 3, 2022 AGENDA**

Subject:	Type:	Submitted By:
APPROVE PURCHASE AGREEMENT – CRRSAA FUNDS	◆RESOLUTION ORDINANCE RECEIVE/FILE	JOE SOUCIE DIRECTOR OF PUBLIC WORKS

SYNOPSIS

A resolution has been prepared approving a Purchase - Sale Letter Agreement for Coronavirus Response and Relief Supplemental Appropriation Act (CRRSAA) made between the Nebraska Department of Transportation (NDOT) and the City of La Vista.

FISCAL IMPACT

Cash payment from NDOT for \$108,115 for transportation related projects.

RECOMMENDATION

Approval

BACKGROUND

The Metropolitan Area Planning Agency (MAPA) received \$6,377,523 in CRRSAA funds which is to be divided among Local Public Agencies that are part of MAPA. The Local Public Agencies (LPA) agreed to sell to the State the right to use \$6,377,523 in exchange for the State making a cash payment to the LPA for 90% of the total dollar amount or \$5,739,770.70. The cash payment to the LPA reduces the number of federal requirements placed on projects and gives the LPA more latitude on spending the funding for transportation related projects. The City of La Vista will receive \$108,115.

RESOLUTION
SIGNING OF CRRSSA FUND PURCHASE AGREEMENT

City of La Vista

Resolution No. _____

Whereas: NDOT has previously entered into an agreement with the Metropolitan Area Planning Agency (MAPA) to purchase federal Coronavirus Response and Relief Supplemental Appropriations Act (CRRSSA) funds that were made available to entities within MAPA.

Whereas: The State's total cash payment will be equal to 90% of the CRRSSA federal funds purchased by the State from MAPA.

Be It Resolved: by the City Council of the City of La Vista that:

The Mayor of the City of La Vista is hereby authorized to sign the attached Project CRRSSA Fund Purchase Agreement between the City of La Vista and the NDOT.

Adopted this _____ day of _____, 2022 at _____ Nebraska.
(Month) (Year)

The City Council of the City of La Vista

Board/Council Member _____

Moved the adoption of said resolution

Member _____ Seconded the Motion

Roll Call: _____ Yes _____ No _____ Abstained _____ Absent

Resolution adopted, signed and filed as adopted

Attest:

Clerk

**FEDERAL-AID TRANSPORTATION FUND
PURCHASE- SALE LETTER AGREEMENT
CORONAVIRUS RESPONSE AND RELIEF SUPPLEMENTAL APPROPRIATION ACT
(CRRSAA)**

Nebraska Department of Transportation

City of LaVista

THIS LETTER AGREEMENT made and entered into by and between the State of Nebraska, Department of Transportation, hereinafter referred to as the "State," and City of LaVista, Nebraska, hereinafter referred to as Local Public Agency, or "LPA."

RECITALS

WHEREAS, the Metropolitan Area Planning Agency (MAPA) had the right to use certain Coronavirus Response and Relief Supplemental Appropriation Act (CRRSAA) funds for local federal-aid highway projects, and

WHEREAS, LPA, as an entity that is a part of MAPA, would have been entitled to use some of those CRRSAA funds, and

WHEREAS, MAPA has agreed to sell to State, in an Agreement dated July 28, 2021, attached hereto and made a part hereof, the right for State to purchase and use MAPA's CRRSAA funds, for State federal-aid Highway projects, in exchange for a cash payment from State that will be allocated among and paid directly to each of the local governmental entities that are a part of MAPA (See attached Agreement for anticipated allocation), and

WHEREAS, the State's total cash payment will be equal to 90% of the CRRSAA federal funds purchased by State from MAPA, and

WHEREAS, the Agreement between State and MAPA, (signed copy attached as Attachment A), contains limitations on the use that LPA can make of the cash payment received, and also includes a requirement for annual certifications from LPA to State concerning the LPA's use of the cash payment, and

WHEREAS, the purpose of this Agreement is for LPA to agree to be bound by the terms of the State/MAPA Agreement in exchange for LPA receiving a share of the cash payment.

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 agreement will terminate when State has received final certification from LPA that all funds received from State's purchase of the CRRSAA funds have been expended by LPA consistent with the requirements of this Agreement.

SECTION 2. Obligations of LPA. In exchange for the receipt of LPA's share of the cash payment from State, for State's purchase of the CRRSAA funds from MAPA, LPA agrees to be fully bound by all of the obligations of MAPA under the attached agreement, including but not limited to, the Limitations on LPA's Use of the Cash Payment set out in Section 4, and the obligation of LPA to make annual certifications to State as required in Section 5 of the attached agreement.

SECTION 3. Obligations of State. State agrees to make direct payment to LPA for the share of the cash payment, expected to be in the amount shown in the attached agreement in the amount of \$108,115.00, and to meet any other obligations of the attached Agreement applicable to LPA.

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 _____, 2022.

WITNESS:

CITY OF LAVISTA

By

Title

EXECUTED by the State this ____ day of _____, 2022.

STATE OF NEBRASKA
DEPARTMENT OF TRANSPORTATION

By

Title

**FEDERAL-AID TRANSPORTATION FUND
PURCHASE- SALE AGREEMENT
CORONAVIRUS RESPONSE AND RELIEF SUPPLEMENTAL APPROPRIATIONS
ACT (CRRSAA)**

Nebraska Department of Transportation

Metropolitan Area Planning Agency

THIS AGREEMENT made and entered into by and between the State of Nebraska, Department of Transportation, hereinafter referred to as the "State," and the Metropolitan Area Planning Agency, 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 Neb. Rev. Stat. §§ 39-1307 and 66-4,100; and,

WHEREAS, under the Coronavirus Response and Relief Supplemental Appropriation Act (CRRSAA), the LPA was allocated \$6,377,523.00 apportionment from the Highway Infrastructure Program for LPA's use in response to the losses suffered by the LPA as the result of the Coronavirus pandemic, 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, LPA wishes to sell to State the right to use \$6,377,523.00 of LPA's CRRSAA funds for Title 23 transportation purposes in exchange for State making a cash payment to LPA.

WHEREAS, the cash payment to be made by the State to local governments within MAPA will be equal to ninety percent (90%) of the total dollar amount of federal-aid funds purchased by the State ($\$6,377,523.00 \times .90\% = \$5,739,770.70$).

WHEREAS, the cash payment will be made to the local governments within MAPA no later than the end of federal fiscal year 2022, depending on State's sole determination of cash flow.

WHEREAS, State will use all of the \$6,377,523.00 received from the LPA to pay a portion of the expected construction costs for the upcoming State project identified as CN

22611, I-680 Bridges, and State will meet all standard federal-aid requirements for the use of those funds, and

WHEREAS, LPA will pass through to local governments within MAPA the cash received from State and such funds will be used by the local governments within MAPA only for the purposes set out in this agreement, and

WHEREAS, the LPA is interested in selling these 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. This Agreement will terminate when State has received the last certification from the local governments within MAPA when all funds have been used constant with the terms of this agreement. The State may terminate this Agreement for any reason at any time by giving LPA advance notice 60 days prior to the date of termination.

SECTION 2. Calculation of LPA's share of the Federal-Aid Funds Purchase. The LPA is entitled to \$6,377,523.00 of CRRSSA funds and will be purchased by the State for use on a transportation project.

SECTION 3. Cash Payment Calculation and Payment Date. The cash payment to be made by the State to the local governments within MAPA will be equal to ninety percent (90%) of the total dollar amount of federal-aid funds sold by LPA to State. The total dollar amount of federal-aid funds purchased by the State is \$6,377,523.00 with a payout to the local governments within MAPA in the amount of \$5,739,770.70. Instead of paying MAPA the cash payment, State will make payment directly to the local governments within MAPA at the funding level listed in the following table:

Local Government	Funding
Douglas County	\$1,034,772
Sarpy County	\$750,265
Bellevue	\$360,233
Bennington	\$75,000
Gretna	\$75,000
La Vista	\$108,115
Omaha	\$2,804,680
Papillion	\$146,706
Ralston	\$75,000
Springfield	\$75,000
Valley	\$75,000
Waterloo	\$75,000
Boys Town	\$75,000
Cass County	\$10,000

SECTION 4. Limitations on LPA's and local governments with MAPA Use of

Cash Payment. The portion of the cash payment received by the local government within MAPA from the State for the purchase of the **funds** shall be used solely for the transportation purposes eligible under CRRSAA or 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. LPA shall assist state in obtaining letter agreements from the local governments within MAPA to bind the local governments to the requirements of this section.

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.

The local governments within MAPA shall segregate the cash payment and shall separately account for the cash payment received from the State within its accounting system. 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 5. Annual Certification of Use of Cash Payment and Action

Required for Improper Use of Funds. Until all such funds have been used by the local governments within MAPA, each local government shall submit to State an annual certification in accordance with this agreement. The annual certification shall be filed with the Local Assistance Division of the State and the form shall be submitted by local government within 90 days after the end of sub entities fiscal year. Further, each local government within MAPA must 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, the applicable local government within MAPA must provide the State with a repayment plan for that local government to replace the improperly diverted funds by depositing an equivalent amount of other local funds into the cash payment account. If the local government within MAPA fails to repay the funds or fails to provide a repayment plan that is acceptable to the State, the State will withhold local government's future annual payments until the applicable local government, repays all improperly diverted funds. If the local government within MAPA fails to meet the requirement of the prior sentence, the State may terminate this Agreement and apply any future funds of the local government within MAPA toward the repayment of the improperly diverted funds.

SECTION 6. Fund Distribution. Prior to the distribution of funds under this Agreement, LPA agrees to facilitate State obtaining a separate "Letter" Agreement from each of the local governments receiving a cash payment, with each entity agreeing to be

bound to the terms of this Agreement, including but not limited to the use of the cash distribution and the annual certification requirements.

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) 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. Application of Purchased Funds. The LPA understands that the State, at its sole discretion, intends to use the federal-aid funds purchased from LPA for the I-680 Bridges project identified in the recitals above.
- C. Audits. The LPA agrees to make its records and books available at any time to representatives or designees of the State for audit.
- D. 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.
- E. 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.
- F. 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.

- J. Right-of-Way. The LPA is advised to use or cause any sub entity 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 22 day of July, 2021.

WITNESS:

Pamela L. Suthe

METROPOLITAN AREA PLANNING AGENCY

By

Douglas D. Kindig

MAPA Board Chair

Title

EXECUTED by the State this 28th day of July, 2021.

STATE OF NEBRASKA
DEPARTMENT OF TRANSPORTATION

Khalid

By

Deputy Director - Engineering

Title