

MUNICIPAL COST SHARING

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1. **Purpose:** To provide policy for the calculation of the municipal share of project costs for projects on **non-freeway** state highways located within or adjacent to the corporate limits of a municipality. Project costs include costs for preliminary engineering, eligible utility rehabilitation, construction, right-of-way and construction engineering. This policy applies to all **non-freeway** state highway projects including: "New and Reconstructed" projects, "Resurfacing, Restoration and Rehabilitation" (3R) projects, and "Maintenance" projects. This policy does not apply to projects determined by the Department to be "wants" or economic development projects. Projects classified as "wants" are projects that do not satisfy a state highway transportation need or that exceed the recognized need. Economic development projects are projects that are being built primarily to accommodate adjacent economic development. The office of primary responsibility for this DOR-OI is the Roadway Design Division. This DOR-OI supersedes DOR-OI 60-11 dated May 5, 2011. This policy is in compliance with and supplementary to Nebraska Revised Statutes.

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 2. **Statutory References:** Neb. Rev. Stat. §§ 39-1339 and 39-2105 (see Attachment A).

 3. **State Highways Abutting, Adjoining or Adjacent to the Municipal Corporate Limits:**
 - A. In accordance with Sections 5, 6 and 7, a municipal corporation will be required to participate in the cost of the entire width of a project if:
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 - (1) A portion of a state highway abuts, or adjoins the corporate limits of the municipality, or

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 - (2) A portion of a state highway that is adjacent to the corporate limits when it appears to the Department that the state highway is being used by municipal traffic as if it were within the corporate limits of the municipality.

 - B. Apportionment of costs will be based upon the municipal corporate limits existing on the date that the department signs the municipal agreement.

 4. **Agreements:**
 - A. Projects involving a municipal contribution: The Department and municipality shall enter into a written agreement establishing the scope of the project and a tentative construction schedule. It is the intent of the Department that the project be coordinated throughout the project term with the municipality.

- B. Projects involving no municipal contribution: When a municipality is not required to make a financial contribution to a project, a written agreement for parking restrictions, encroachments, municipal-owned utilities, and other matters is required. If an existing municipal maintenance agreement adequately covers parking restrictions, encroachments, municipal-owned utilities, and other aspects of the project, and if no financial participation or change in participation is required, no new or modified agreement is necessary.

5. Municipal Share – all Municipalities:

- A. A municipality will not be required to share in project costs if the estimated municipal share is \$10,000 or less.
- B. Unless addressed elsewhere herein, a municipality will pay 100 percent of the project costs of a project that is at the request of and for the sole benefit of the municipality.
- C. A municipality will pay 100 percent of the costs of improvements constructed at the request of the municipality which are beyond the scope of and are not warranted by the highway project.
- D. Relinquishment Projects: Municipalities will not normally share in the cost of projects accomplished as part of a relinquishment agreement. Improvements under these projects will be based upon DOR-OI 60-13, Relinquishment of Roads from the Highway System.

E. Traffic operations and lighting systems:

- (1) The project costs for traffic signals and/or lighting systems, not part of a “New and Reconstructed”, “3R”, or “Maintenance” project, will be allocated 50 percent to the Department and 50 percent to the municipality. Project costs include the cost of all work required for the construction of the traffic signals and/or lighting systems, such as intersection geometric improvements.
- (2) The municipality will pay 100 percent of the cost of operating, repairing and maintaining the traffic signal and/or lighting system.
- (3) Roundabouts will be part of the project costs when the Department deems them necessary. The municipality will pay 100 percent of the difference in project costs when a roundabout is built at their request in lieu of the Department’s recommended design.

F. Rail/highway grade crossing safety projects:

- (1) Project costs will be funded with a combination of state, federal, local and railroad funds. The cost sharing on specific projects will be determined by an agreement between the parties involved. Eligible project items may include preliminary and construction engineering, right-of-way, utilities, and construction costs.

- (2) Railroad companies require that the construction of all pedestrian viaducts must incorporate a chain link fence as part of a rail safety project. The chain link fence must be a minimum of six (6) feet high and extend along the railroad track right-of-way for a minimum of 500 feet in each direction from the pedestrian viaduct, on both sides of the track. NDOR agrees to participate in a one-time maximum payment of \$40,000 to the municipality for fence construction. NDOR assumes no other liability or involvement beyond said financial participation. Municipalities will be responsible for 100% of the cost of obtaining all necessary right-of-way, construction, and maintenance of said fence, as well as any necessary reconstruction costs. These terms will be included in the project agreement with the municipality.

G. Highway and Municipal Drainage Facilities:

- (1) Definitions:

Highway drainage facilities are the facilities designed to collect and drain waters from the highway, the right-of-way and adjoining lands. These highway drainage facilities are usually located within the highway right-of-way.

Municipal drainage facilities are the facilities used by the municipality for the drainage of waters including waters draining from the highway drainage facilities. These municipal drainage facilities are usually located outside of highway right-of-way.

Additional drainage waters are the increased waters reaching the drainage facilities due to the project being built.

- (2) Apportionment of costs:
Highway drainage facilities: Costs will be shared as a project cost.

Municipal drainage facilities: The municipality will pay all costs associated with the upgrade of municipal drainage facilities.

- (3) Drainage design – No additional drainage waters:

The Department will design its highway drainage facilities to collect and discharge storm water based on the design guidelines set out in the Roadway Design Division's "Drainage Design Manual", if feasible, based on all applicable considerations. When the highway drainage facilities connect or drain into the municipal drainage facilities, the Department will calculate and notify the municipality of the capacity of the municipal drainage facilities necessary to convey waters away from the highway. When the capacity of the municipal drainage facilities does not comply with the Department's design guidelines, the Department will notify the municipality that it should upgrade its municipal drainage facilities. The Department will request, for safety and liability reasons, that the municipality commit to one of the plans for upgrading their municipal drainage facilities as described below.

- (a) The municipality provides the Department with reasonable written assurances of a present plan for a future upgrade of its municipal drainage facilities. The municipality shall provide the Department with the details of its proposed improvements that will convey the design hydraulic event determined by the Department.
- (b) The municipality requests that the project include an upgrade of its municipal drainage facilities to be paid for solely by the municipality, and the municipality shall enter into an agreement with the Department concerning this upgrade of its facilities prior to the Department beginning the design of the project.

If the Department determines that significant additional drainage waters will be conveyed to the municipal drainage facilities because of the design of the project, the Department will determine, on a case-by-case basis, whether the municipal drainage facilities will be upgraded and whether the Department will share in any portion of the cost of such upgrade. The extent of the upgrade to the municipal drainage facilities and the division of cost for such upgrade will be a matter of negotiation to be resolved and set forth in an agreement with the municipality.

H. **Municipal Utility Reimbursement Policy:**

- (1) Non-betterment relocation of municipality-owned utilities made necessary by the construction or reconstruction of state highways within the municipal corporate limits are eligible as a project cost. The relocated municipality-owned utilities shall meet all applicable standards or codes that govern the installation, operation and maintenance of said facilities.

- (2) All relocation of municipality-owned utilities made necessary by the construction or reconstruction of state highways outside the corporate limits and located within the state right-of-way are not eligible for reimbursement by the Department.

- (3) Non-betterment relocation of municipality-owned utilities due to construction or reconstruction of state highways which are located outside the corporate limits and outside the state right-of-way are eligible as a project cost for reimbursement by the Department. The relocated municipality-owned utilities shall meet all applicable standards or codes that govern the installation, operation and maintenance of said facilities.

- (4) Any municipality-owned utility cost that is eligible as a project cost will be included in the project cost sharing. When it is determined that a municipality is required to participate in the cost of a project, the cost sharing will be in accordance with Sections 5, 6 and 7.

- I. **Americans with Disabilities Act (ADA) Compliance:** The municipality will be responsible for 100 percent of the costs for upgrading existing sidewalks and curb ramps to meet ADA accessibility guidelines, which are outside the normal scope of the project and are at the request of the municipality.

6. Municipal Share – Municipalities with a Population of 5,000 or Less:

- A. Except as provided in this section, the municipality with a population of 5,000 or less will not ordinarily be required to participate in the cost of a project.
- B. **On Highway Parking Areas:** The municipality will pay 100 percent of the costs of constructing additional parking areas and the reconstruction of existing parking areas, which are at the request of the municipality. One hundred percent of the costs of resurfacing existing parking areas will be the responsibility of the Department.

- C. **Federal-Aid Safety Projects:** The municipal share is 10 percent of the total cost of a federal-aid safety project for projects on streets or roads that are not on the state highway system. No municipal contribution is required for a federal-aid safety project on the state highway system.

- D. **Americans with Disabilities Act (ADA) Upgrades – Sidewalks and Curb Ramps:**

- (1) **“New and Reconstructed” Projects:** The municipality will not be required to share in the costs of constructing or reconstructing sidewalks and curb ramps when included in the normal scope of a “New and Reconstructed” project.

- (2) **“3R” or “Maintenance” Projects:**

- (a) Sidewalks will not ordinarily be reconstructed as a part of a “3R” or “Maintenance” project, unless the municipality requests that sidewalks be reconstructed, at its sole cost, as a part of the project.

- (b) Curb ramps will be constructed or reconstructed to meet federal and state accessibility guidelines under “3R” and “Maintenance” projects at no cost to the municipality. The cost of constructing or reconstructing sidewalk required to blend these curb ramps into the adjoining sidewalk will also be performed at no cost to the municipality.

7. Municipal Share – Municipalities with a Population Over 5,000:

- A. Municipalities with a population over 5,000 may be required to participate in the cost of a project within, or in some instances, adjacent to the corporate limits of the municipality.

- B. **Computation of Total Cost for “New and Reconstruction” Projects:**

A municipality’s project cost share shall be based on the number of thru-traffic lanes as described below. Where the number of lanes is in transition, the start and end points for the differing number of lanes shall be at the mid-point of each transition. Turn lanes, medians, parking areas and surfaced shoulders shall not be considered to be thru-traffic lanes.

- *** (1) **Projects including no more than two thru-traffic lanes:** Except as provided in Section 5 of this DOROI, the municipality will not be required to share in the cost of a project that includes no more than two thru-traffic lanes.
- *** (2) **Projects including no more than four thru-traffic lanes:** Except as provided in Section 5 of this DOR-OI, the municipality will pay 20 percent of the project cost attributable to any portion of the project that includes four thru-traffic lanes.
- *** (3) **Projects including more than four thru-traffic lanes:** Except as provided in Section 5 of this DOROI, the municipality will pay a share of the cost of the project attributable to any portion of the project that includes more than four thru-traffic lanes. The municipality's share will be based upon the number of thru-traffic lanes in excess of the lesser number of lanes entering or leaving the municipality, however, the municipality's minimum share will be 20 percent.

Example one: If the highway enters the municipality with two thru-traffic lanes and leaves the municipality with four thru-traffic lanes and the project has a two thru-traffic lane segment, a four thru-traffic lane segment and a six thru-traffic segment, the municipal cost share is 0 percent of the cost of the two thru-traffic lane segment, 20 percent of the cost of the four thru-traffic lane segment and 66.67 percent of the cost of the six thru-traffic lane segment of the project.

Example two: If the highway enters and leaves the municipality with four thru-traffic lanes and the project has a four thru-traffic lane segment and a six thru-traffic lane segment, the municipal cost share is 20 percent of the cost of the four thru-traffic lane segment and 33.33 percent of the cost of the six thru-traffic lane segment of the project.

Example three: If the highway enters and leaves the municipality with six thru-traffic lanes and the project has a six thru-traffic lane segment and an eight thru-traffic lane segment, the municipal cost share is 20 percent of the six thru-traffic lane segment and 25 percent of the cost of the eight thru-traffic lane segment of the project.

C. Computation of Total Cost for "3R" and Maintenance" Projects:

A municipality's project cost share shall be based on the number of thru-traffic lanes as described below. Where the number of lanes is in transition, the start and end points for the differing number of lanes shall be at the mid-point of each transition. Turn lanes, medians, parking areas and surfaced shoulders shall not be considered to be thru-traffic lanes.

- (1) The municipality's share will be the cost of the number of thru-traffic lanes in excess of the lesser number of thru-traffic lanes entering or leaving the municipality.

Example one: If the highway enters and exits the municipality with two thru-traffic lanes and the project has a two thru-traffic lane segment and a four thru-traffic lane segment, the municipal cost share is 0 percent of the cost of the two thru-traffic lane segment and 50 percent of the cost of the four thru-traffic lane segment of the project.

Example two: If the highway enters and exits the municipality with four thru-traffic lanes and the project has a four thru-traffic lane segment and a six thru-traffic lane segment, the municipal cost share is 0 percent of the cost of the four thru-traffic lane segment and 33.33 percent of the cost of the six thru-traffic lane segment of the project.

Example three: If the highway enters the municipality with two thru-traffic lanes and exits the municipality with four thru-traffic lanes and the project has a two thru-traffic lane segment, a four thru-traffic segment and a six thru-traffic lane segment, the municipal cost share is 0 percent of the cost of the two thru-traffic lane segment, 50 percent of the cost of the four thru-traffic lane segment and 66.67 percent of the cost of the six thru-traffic lane segment of the project.

Example four: If the highway enters the municipality with four thru-traffic lanes and exits the municipality with six thru-traffic lanes and the project has a four thru-traffic lane segment, a six thru-traffic lane segment and an eight thru-traffic lane segment, the municipal cost share is 0 percent of the cost of the four thru-traffic lane segment, 33.33 percent of the cost of the six thru-traffic lane segment and 50 percent of the cost of the eight thru-traffic lane segment of the project.

(2) Municipalities will not normally share in the cost of resurfacing projects accomplished as part of a relinquishment agreement.

(3) Because funding is limited and because many municipalities have their own annual resurfacing programs, District Engineers may elect to allow the municipality to design, let, and construct municipal resurfacing projects. In such cases, the preliminary and construction engineering costs are 100 percent the responsibility of the municipality. Resurfacing projects on the highway system let by the municipality shall include elimination of barriers to access as defined under the Americans with Disabilities Act and subsequent Federal regulations or technical guidance.

D. Bridges:

- *** (1) The municipal share of the total cost of new construction, replacement, rehabilitation, redecking, widening and placing a structural overlay, and adding sidewalks to bridges will be determined pursuant to Section 7.B. Construction of additional width for lanes or sidewalks beyond that which is existing or under contract by the municipality shall be constructed at the municipalities cost.

Example: If the Department is replacing a two-lane bridge with an existing sidewalk on one side and the municipality requests that the new bridge accommodate a planned but not contracted three lane section with a shared use path on one side and a sidewalk on the other, the additional costs associated with the additional lane and the additional width of walkway would be 100% municipal cost.

- *** (2) In general, bridge maintenance work will not require municipal cost participation (i.e., polymer deck overlays, abutment repair, pier repair, deck repair, joint repair, curb repair, curb replacement, and approach slab repair).

E. Americans with Disabilities Act (ADA) Compliance – Sidewalks and Curb Ramps:

- *** (1) **“New and Reconstructed” Projects:** The municipality will share in the costs of constructing or reconstructing sidewalks and curb ramps to meet state and federal accessibility regulations and technical guidance when included in any “New and Reconstructed” project as a project cost.

(2) **“3R” or “Maintenance” Projects:**

- (a) Sidewalks will not ordinarily be reconstructed as a part of a “3R” or “Maintenance” project, unless the municipality requests that sidewalks be reconstructed, at its sole cost, as a part of the project.

- *** (b) Elimination of barriers to access including the construction of curb ramps will be constructed or reconstructed to meet state and federal accessibility regulations and technical guidance under “3R” and “Maintenance” projects with resurfacing of any thickness. The municipality will share in the cost of eliminating barriers to access including constructing or reconstructing curb ramps, and sidewalk construction or reconstruction required to blend these curb ramps into the adjoining sidewalk as a project cost.

- F. **On-Highway Parking Areas:** The municipality will be responsible for 100 percent of the costs of constructing additional parking areas and/or the reconstruction or resurfacing of existing parking areas, which are at the request of the municipality.

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- G. **Federal-Aid Safety Projects:** The municipal share of a federal-aid safety project either **on** or **off** the state highway system is 10 percent of the total cost of the project.
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- H. **Traffic Signals and Lighting Systems:** For the purpose of determining the municipal share of traffic signals and/or lighting systems installed as part of a “New and Reconstructed”, 3R, or “Maintenance” project, the costs are considered a project cost. The municipality will pay 100 percent of the cost of operating, repairing and maintaining the traffic signal and/or lighting system. The municipal agreement will detail the municipality’s duties and responsibilities related to operation, maintenance and repair of the traffic signal or street lighting systems.

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ATTACHMENT "A"

Neb. Rev. Stat. § 39-1339

State highway system; connecting links, defined; duty of Department of Roads. Except as provided in section 39-1372, the responsibility of the department for the maintenance of connecting links on the state highway system shall be determined in accordance with the following provisions:

(1) The department shall be liable for the cost of surface maintenance of the traveled way of connecting links, not including the parking lanes thereon, in cities of the metropolitan, primary, and first classes; PROVIDED, such connecting links were constructed under the authority of the department and construction costs were paid in whole or in part with county, state or federal-aid funds. The department shall not be responsible for the maintenance of any connecting link or portion thereof, which was not built in whole or in part with county, state or federal-aid funds;

(2) The department shall be liable for all of the surface maintenance of the traveled way of connecting links, including parking lanes thereon, in cities of the second class and villages; PROVIDED, such connecting links were constructed under the authority of the department and construction costs were paid in whole or in part with county, state or federal-aid funds. The department shall not be responsible for the maintenance of any connecting link or portion thereof which was not built with county, state or federal-aid funds;

(3) The responsibility of the department for the maintenance of the connecting links, described in subdivisions (1) and (2) of this section, shall be limited to such things as are caused either by wear and tear of travel on such connecting links or by acts of God. Maintenance shall not be construed to include (a) snow removal, (b) maintenance caused by constructing, placing, replacing, repairing, or servicing water mains, sewers, gas lines, pipes, utility equipment, or other similar things placed beneath, across, or upon the surface of any portion of a connecting link, or (c) repairs or reconstruction going beyond the scope or normal surface maintenance or wear and tear of travel;

(4) The maintenance of structures, on the connecting links described in subdivisions (1) and (2) of this section, shall not be limited to the traveled way but shall include the entire structure; PROVIDED, the department shall have no responsibility for the maintenance of appurtenances to such connecting links and the structures thereon, except by special agreement with the city or village in which the connecting link is situated. Appurtenances shall include, but are not limited to, sidewalks, storm sewers, guardrails, handrails, steps, curb or grate inlets, driveways, fire plugs, or retaining walls;

(5) The department shall maintain and keep in repair all public bridges and the approaches thereto when located in cities of the first class and on connecting links which were constructed under the authority of the department and construction costs were paid in whole or in part with state or federal funds;

(6) Nothing contained in this section shall be construed to prevent the department from entering into special agreements with cities or villages regarding the reconstruction and maintenance of connecting links in such cities and villages; and

(7) As used in this section, unless the context otherwise requires, connecting link shall mean a street now designated as a state highway.

Neb. Rev. Stat. § 39-2105
Functional classifications; jurisdictional responsibility

Jurisdictional responsibility for the various functional classifications of public highways and streets shall be as follows:

(1) The state shall have the responsibility for the design, construction, reconstruction, maintenance, and operation of all roads classified under the category of rural highways as interstate, expressway, and major arterial, and the municipal extensions thereof, except that the state shall not be responsible for that portion of a municipal extension which exceeds the design of the rural highway leading into the municipality. When the design of a rural highway differs at the different points where it leads into the municipality, the state's responsibility for the municipal extension thereof shall be limited to the lesser of the two designs. The state shall be responsible for the entire interstate system under either the rural or municipal category, and for connecting links between the interstate and the nearest existing state highway system in rural areas: PROVIDED, if such a connecting link has not been improved and sufficient study by the Department of Roads results in the determination that a link to an alternate state highway would provide better service for the area involved, the department shall have the option of providing the alternate route, subject to satisfactory local participation in the additional cost of the alternate route;

(2) The various counties shall have the responsibility for the design, construction, reconstruction, maintenance, and operation of all roads classified as other arterial, collector, local, and minimum maintenance under the rural highway category;

(3) The various incorporated municipalities shall have the responsibility for the design, construction, reconstruction, maintenance, and operation of all streets classified as expressway, which are of a purely local nature, that portion of municipal extensions of rural expressways and major arterials which exceeds the design of the rural portions of such systems, and responsibility for those streets classified as other arterial, collector, and local within their corporate limits; and

(4) Jurisdictional responsibility for all scenic-recreation roads and highways shall remain with the governmental subdivision, which had jurisdictional responsibility for such road or highway prior to its change in classification to scenic-recreation made pursuant to Neb. Rev. Stat. §§ 39-2103, 39-2105, 39-2109, and 39-2113.

Note – The Department has defined the phrase “exceeds the design,” as used in the Statutes, to apply to the overall design of the roadway including the number of thru-traffic lanes entering or leaving the municipality. Because a municipal design and a rural design differ as far as appurtenances and drainage, the Department has established 20% as the minimum participation for new and reconstruction projects with four thru lanes within cities of the first class. Further refinement of the municipal participation rate will be based upon the actual number of thru traffic lanes built with the project compared to the number of thru lanes entering or leaving the municipality. The test of “excess” in design applies to any point where the highway enters and/or leaves the municipality and not necessarily at the site of the improvement. Department policy defines the point where the highway enters and/or leaves the municipality to be the corporate limits of the municipality.

Website for Chapter 39 Nebraska Highway and Bridge Law State Statutes
<http://uniweb.legislature.ne.gov/laws/browse-chapters.php?chapter=39>

Cost Sharing for Local Roads Crossing Freeways and Expressways

- *** 1. Purpose: To provide policy for determining the local (city or county) share of project costs on local roads crossing or intersecting state highway freeways and expressways. The office of primary responsibility for this DOR-OI is the Roadway Design Division.
- *** 2. Off-system crossroad and interchange improvements:
- A. When the Department is constructing or upgrading an off-system crossroad over or under a freeway or expressway as a part of a new or reconstructed freeway or expressway project, it is Department policy that the “project” will fund construction of the crossroad to match the existing typical¹ section of the crossroad. If a county or city desires the crossroad to be constructed to an expanded typical section (multiple lanes), the county or city shall pay for all costs, associated with the crossroad, in excess of those required to match the existing typical section.
- B. When no Department freeway or expressway expansion project is planned and a county or city desires to expand the typical section of an off-system crossroad passing over or under a freeway or expressway, the county or city shall pay for all expansion costs.
- *** 3. Distribution of cost savings resulting from changes in the number or design of local roads crossing or connecting to a freeway.
- A. When the Department is planning a freeway reconstruction project, the “base” design must first be established and cost estimated. This is usually replacing those local facilities “in kind”. If the parties agree to eliminate a city or county road grade separation, the Department may apply up to the net cost savings to enhancing other features of the project of mutual interest, including other local roads within the project, with the following stipulations:
- (1) A formal agreement is required.
 - (2) The savings cannot be applied to roads outside the project limits.
 - (3) The savings must be applied at the time of the Department’s project.
 - (4) The savings must be applied to features that meet but do not exceed the standards of the Board of Public Roads Classifications and Standards, and to features that fit within the local long-range comprehensive plan.

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Deputy Director - Engineering

¹ existing typical is defined as the typical section in place, or under contract by the city or county, at the time the Department conducts its project contract letting.

RELINQUISHMENT OF ROADS FROM THE HIGHWAY SYSTEM

1. **Purpose:** To provide policy for the relinquishment of roads, by preparation, distribution, and disposition of relinquishment agreements between the Nebraska Department of Roads and an outside party. The office of primary responsibility for this DOR-OI is the Planning and Project Development (PPD) Division. This DOR-OI supersedes DOR-OI 60-13 dated February 15, 2002.

2. **General:**

When a segment of highway is relocated, the functional classification of the old highway will be changed. The Department will offer to relinquish to the political or governmental subdivision(s) or public corporation(s), any portion of the old state highway that has been relocated. If an offer to relinquish a highway segment is not accepted by the local jurisdiction(s), the State may abandon it as provided by law (See Section 8 "Abandonment of Roadway"). The Department will relinquish the highway to the local agency after following the approved policy for relinquishment of highways.

Before relinquishment, the Department may improve the surface of existing highways if the roadway has a Nebraska Serviceability Index (NSI) or Present Serviceability Index (PSI) less than or equal to:

	NSI	PSI
Bituminous Pavements	70	2.5
Composite (overlay) Pavements	60	2.5
Portland Cement Concrete Pavements	50	2.5

Other than surface rehabilitation, improvements to the roadway will not be made. At the time of relinquishment, the Nebraska Department of Roads (NDOR) will assess the adequacy of structures and determine if any reparation or corrective action is required. It is the intent of the State to relinquish only those structures which are structurally and functionally adequate for the purpose for which they will be used.

In any relinquishment or closure proceeding where the NDOR owns fee simple title to the underlying land, ownership should be reserved by the NDOR. However, the land may be sold according to Nebraska Statute Sec. 39-1325. If sold, the contract must guarantee that utility companies have a perpetual right to utilize the former state right of way.

Whenever a public hearing for a highway project is held, the Department of Roads' presentation will include a statement explaining the proposed changes in the highway system and the proposed segments of the existing highway to be relinquished to local jurisdiction.

A highway may be automatically relinquished by the state when its functional classification changes. However, it is preferable to acquire a signed relinquishment agreement with the County or City prior to highway removal or location approval.

The relinquishment or abandonment of a highway segment must be recommended by the NDOR and the Highway Commission and approved by the Governor. This action should take place at the location approval stage.

*** 3. **Procedure for Completing Agreements:**

PPD, Agreements Engineer, is the activity manager for relinquishment activities in the Project Scheduling System (Clarity), and will initiate all agreements pertaining to relinquishments and changes in classification and jurisdictional responsibility. The development of the agreement will be according to the time frame defined in Clarity.

The activity manager will coordinate this effort with Roadway Design, PPD, Right of Way, and the District Engineer (DE). Throughout this entire process, Clarity will be updated by the activity manager to reflect the progress of the relinquishment activity for each applicable project.

PPD, Agreements Engineer will attend dry-run hearings to review projects with relinquishments.

*** 4. **Covenant Agreement Process:**

A. Expressway Projects

*** Alignment concepts are studied by PPD. Example projects are expressway studies and could include, new railroad viaduct construction, major river crossings or city bypass routes.

*** (1.) During the course of such studies, PPD will discuss the possibility of relinquishment with the governmental entity affected. Whenever possible, a commitment in the form of a resolution or letter of intent to accept the relinquishment will be obtained from each governmental entity involved.

a. When potential changes in the National and/or State Functional Classification of roadways is an issue, Materials & Research, Functional Classifications Section staff will be a part of the discussion with Local entities.

(2.) Once an alignment is selected as the preferred route, a location hearing is normally conducted. Relinquishment information is provided in the engineering presentation and public comment is received.

*** (3.) The Agreements Engineer will be notified when a relinquishment agreement is needed, and will be advised of any special or specific information necessary to accurately define any previously agreed upon circumstances.

- *** (4.) The Agreements Engineer will prepare a covenant agreement covering the proposed relinquishments. The draft review process will include PPD, Roadway Design, Roadway Asset Management Engineer, and the respective DE.
- *** (5.) If a petition or resolution has not been received from the local jurisdiction, then the relinquishment agreement will contain a paragraph stating that by signing the agreement, the governmental entity is petitioning the State to relinquish said State Highway, according to Nebraska Statute Section 39-1314.
- (6.) The Agreements Engineer will be advised of any subsequent revision(s) or supplementals to the relinquishment(s), by the initiating division, and will prepare the necessary Supplemental Document(s).
- *** (7.) The Agreements Engineer will send the agreement(s) to the appropriate DE to obtain the local signatures and certification.

B. Non-Expressway Projects

- *** (1.) The PPD Division or the Roadway Design Division will notify the Agreements Engineer when a Relinquishment agreement is needed.
- (2.) Whenever possible, a commitment, in the form of a resolution or letter of intent to accept the relinquishment, will be obtained from each governmental entity involved.
- *** (3.) If Clarity calls for action, the Agreements Engineer will notify Roadway Design that project details are needed to start the relinquishment process.
- *** (4.) The Agreements Engineer will prepare a covenant agreement covering the proposed relinquishments. The draft review process will include PPD, Roadway Design, Roadway Asset Management Engineer and the respective DE.
- (5.) The Agreements Engineer will be advised of any subsequent revision(s) or supplementals to the relinquishment(s), by the initiating division and will prepare the necessary Supplemental Document(s).
- *** (6.) The Agreements Engineer will send the agreement(s) to the appropriate DE to obtain the local signatures and certification.

C. Expressway and Non-Expressway Projects

- *** (1.) The DE will receive agreement(s) from the Agreements Engineer and will obtain signatures from representatives of local jurisdiction(s).
- *** (2.) The DE will return signed agreements to the Agreements Engineer.

- (3.) The Agreement Monitoring System will be initiated and updated by the Agreements Engineer.
 - *** (4.) The Agreements Engineer will file one completely executed agreement and will send other(s) to the District Engineer along with a copy in the District's file.
 - *** (5.) The DE will return the fully executed agreement(s) to the local jurisdiction(s).
 - *** (6.) The Agreements Engineer will be advised of any subsequent revision(s) or supplementals to the relinquishment(s), by the initiating division, and will prepare the necessary Supplemental Document(s).
- *** **5. Final/Supplemental Agreement Process:**
- A. For all projects, if a covenant agreement exists, the Agreements Engineer will furnish a copy of the agreement to the Roadway Design Division for review and definition of reference points describing final areas of relinquishment. The Roadway Design Division will furnish the required geometric details to the Agreements Engineer for incorporation into the agreement.
 - B. The Agreements Engineer will review all information with the applicable Division(s) to finalize the agreement.
 - C. If not previously stated in the covenant agreement, and no petition of relinquishment exists, the agreement will contain a paragraph stating that by signing the agreement, the County or City is petitioning the State to relinquish said State Highway, according to Nebraska Statute Section 39-1314.
 - D. A draft agreement will be sent to the: Roadway Asset Management Engineer; Roadway Design Division and the respective DE for review. If significant changes or additions are made during this review process, another review may be necessary.
 - E. Appropriate changes will be made only with consensus, and will be accomplished by the Agreements Engineer.
 - *** F. After final review, agreements will be provided to the DE by the Agreements Engineer.
 - *** G. The DE will obtain signatures from representatives of local jurisdiction(s).
 - *** H. The DE will return signed agreements to the Agreements Engineer.
 - I. The Agreement Monitoring System will be initiated and updated by the Agreements Engineer.
 - *** J. The Agreements Engineer will file one completely executed agreement, and will send the other(s) to the DE along with a copy for the District's file.

- *** K. The DE will return the fully executed agreement(s) to the local jurisdiction(s).
- *** L. The Agreements Engineer will be advised of any subsequent revision(s) to the relinquishment(s), and prepare the necessary Supplemental Document(s).

6. Internal Distribution:

After the agreements are signed, the following distribution will be made by the Agreements Engineer within the Department:

- (1.) Roadway Design
- (2.) Traffic Engineering
- (3.) Right of Way
- (4.) Controller: Maintenance Unit
- (5.) District Engineer
- (6.) Planning and Project Development: Location Studies-Urban, Traffic Analysis Unit
- (7.) Materials & Research: Roadway Asset Management Engineer
- (8.) Logistics
- (9.) BTSD: Mapping Section

*** **7. Document Recording and Final Disposition:**

When the Right of Way Division receives notice of the executed agreement, they will file all necessary legal documents, for the relinquishment, at the appropriate County Office and notify the DE and the Agreements Engineer when the relinquishment was recorded.

The DE shall notify the appropriate local officials, in writing, with copies to: the Agreements Engineer, Roadway Asset Management Engineer, Director, all Deputy Directors, the appropriate Highway Commissioner, and all appropriate Division Heads, of the effective date of change of jurisdictional responsibility.

Roadway Asset Management Engineer will make the final Functional Classification submittal to the Federal Highway Administration, perform all the necessary documentary changes in functional classifications, update the official state highway and local road/street Functional Classification maps and make submittal action to the American Association of State Highway and Transportation Officials (AASHTO) for Route Number changes when necessary.

If necessary the Traffic Engineer will issue a highway route revision informing all concerned officials of the new highway location, number, and identify the old highway.

8. Abandonment of Roadway:

Projects should not progress to the design hearing stage without a signed agreement covering all relinquishments of highways affected by the project.

If the local government refuses to accept the relinquishment, the Department of Roads will delay the project until an agreement with the local jurisdictions can be reached. If an agreement is not obtainable, the Department may abandon the segment as a public road, as provided by Section 39-1314 of State Statute, so the project may continue.

Monty W. Fredrickson
Deputy Director - Engineering