

Attachment D
Lincoln Bike Share
Adopted Sponsorship Policy

16R-76

Introduce: 4-18-16

RESOLUTION NO. A-89654

1 WHEREAS, the City of Lincoln has previously adopted the Bike Share
2 Agreement between the City of Lincoln and the Nebraska Department of Roads by
3 Resolution No. A-89518; and

4 WHEREAS, the Director of the Planning Department has recommended the
5 adoption of the Nebraska Department of Roads' Sponsorship Policy.

6 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
7 Lincoln, Nebraska:

8 That the Nebraska Department of Roads' Sponsorship Policy for the Bike
9 Share Project which is attached hereto and marked as Attachment "A" is hereby approved.

Introduced by:

Don A. Camp

Approved as to Form & Legality:

Jeffery R. Kirzinger
City Attorney

A YES: Camp, Christensen, Eskridge,
Fellers, Gaylor Baird, Raybould;
NAYS: None; ABSENT: Lamm. .

Approved this 28th day of April, 2016:
[Signature]
Mayor

ADOPTED
APR 25 2016
BY CITY COUNCIL

CITY OF LINCOLN REQUEST FORM

Submit one original to City Clerk

Please check (✓, ✗) one, request for: ___ Ordinance X Resolution

Bill No. 116R-76

DESIRED DOCKET DATE: April 18, 2016

Date: 4/7

REQUEST MADE BY: **David R. Cary, Director of Planning**

Introduction: 4/18

DEPARTMENT: **Planning**

Public Hearing: 4/25

EMERGENCY MEASURE REQUIRED: X No ___ Yes
IF EMERGENCY, GIVE REASON (See Art. 6, Sec. 2 of Charter):

FILED

APR 06 2016

DIRECTOR'S EST'D TIME/TESTIMONY:
___ 0 - No Hearing (Consent Agenda) X 1 - Short ___ 2 - Average

CITY CLERK'S OFFICE

___ 3 - Long

REASONS OR JUSTIFICATION FOR PROPOSED LEGISLATION:

Request for Resolution for Council action to adopt the **NEBRASKA DEPARTMENT OF ROADS' SPONSORSHIP POLICY** for the Bike Share Project.

On February 29, 2016, the City Council voted 7-0 to approve the Bike Share Agreement between the City of Lincoln and the Nebraska Department of Roads, adopted by Resolution No. A-89518.

ASSOCIATED REQUESTS: The following applications are associated requests and should be scheduled for hearing at the same time in the following sequence:

- Bike Share Sponsorship Agreement - University of Nebraska-Lincoln
- Bike Share Sponsorship Agreement -Blue Cross Blue Shield
- Bike Share Sponsorship Agreement - Lincoln Community Foundation
- Bike Share Sponsorship Agreement - Spreetail
- Adoption of the Nebraska Department of Road's Sponsorship Policy
- Create a Bike Share Special Reserve Fund

REQUESTOR: ___ DOES X DOES NOT WISH TO REVIEW AND APPROVE THIS ORDINANCE PRIOR TO ITS INTRODUCTION

David R. Cary / gr
DIRECTOR'S SIGNATURE

4/7/2016
DATE

TO BE USED BY THE FINANCE DEPARTMENT

BUDGET REVIEW
ACCOUNT NUMBER AND APPROPRIATE BALANCES
FUND AVAILABILITY APPROVED

DATE:
DATE:
DATE:

FINANCE DIRECTOR'S SIGNATURE

DATE

FACTSHEET

TITLE: Resolution adopting proposed NEBRASKA DEPARTMENT OF ROADS SPONSORSHIP POLICY FOR THE BIKE SHARE PROJECT, requested by the Director of Planning.

SPONSOR: Planning Department

BOARD/COMMITTEE:

STAFF RECOMMENDATION: Approval

FINDINGS OF FACT:

1. This is a request to adopt the Nebraska Department of Roads Sponsorship Policy for the Bike Share Project.
2. **History:**
 - Conducted a day-long workshop in 2014 in conjunction with the Association of Students of University of Nebraska to educate key stakeholders on Bike Share and other programs across the country.
 - The Lincoln-Lancaster County Planning Department applied to the NDOR for a Congestion Mitigation and Air Quality Grant (CMAQ) in the amount of \$600,000, with total project costs of \$750,000.
 - The Planning Department was awarded the total requested funding amount for federal Fiscal Year 2016.
 - The MPO Officials' Committee amended the Transportation Improvement Program (TIP) to include the Bike Share Project in November 2015.
 - The Planning Department has secured local partnerships for the required local match of the CMAQ grant, in the amount of \$150,000. In addition to the receiving the necessary match funds, an additional \$223,334 in funding has been allocated towards the operations and maintenance of the Bike Share Project with the sponsorship funds.
 - On February 29, 2016, the City Council voted 7-0 to approve the Bike Share Agreement between the City of Lincoln and the Nebraska Department of Roads, adopted by Resolution No. A-89518.
3. The Bike Share Project's CMAQ Grant and combined local matching funds in the amount of \$750,000 will be used to design and implement the first phase of the public bike sharing project, including equipment, technology/software, and installation/related services.
4. **Major points of proposed policy:**
 - With the adoption of the agreement between the City of Lincoln and the Nebraska Department of Roads, the City of Lincoln is required to have a sponsorship policy in place for the bike share project.
 - The Nebraska Department of Roads Sponsorship Policy provides direction on sponsorship logos/signage within the public right-of-way.

FACTSHEET PREPARED BY: Geri Rorabaugh

DATE: April 12, 2016

REVIEWED BY: David Cary, Director of Planning

DATE: April 12, 2016

Nebraska Department of Roads Sponsorship Policy for State Highways and Federal-aid Roads, Streets or Other Transportation Facilities Under Local Jurisdiction

1. Purpose

On April 7, 2014, the United States Department of Transportation (USDOT), Federal Highway Administration (FHWA), issued a directive entitled "Policy on Sponsorship Acknowledgment and Agreements within the Highway Right-of-Way" (FHWA Order 5160.1A). The directive provided policy on when and how sponsors of federal-aid projects can be "acknowledged" on public property. These contributions provide invaluable assistance to programs, provide needed highway services, promote alternative transportation modes, improve the environment and/or the beauty of the landscape; thus improving the quality of life for all Nebraskans.

2. Scope of this Policy

This policy allows the acknowledgement on public property of sponsorship contributions to public transportation projects only to the extent allowed herein. A sponsor's contribution may be acknowledged conspicuously as described in either (a) or (b) below, but not in both ways. Further, a sponsor's contribution may be acknowledged as provided in (c) below, so long as the sponsorships are only identifiable to pedestrians in the vicinity of the item and the messages are not readily identifiable to persons traveling on the adjoining roadway. Standard acknowledgement messages on bike share bicycles are exempt from the terms of this policy.

- (a) A sponsor's contribution to a public transportation project may be acknowledged with the placement on public street, road or highway right-of-way of an official sign, on a traditional highway sign post, identified in Section 2H.08 of the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) as an "Acknowledgement Sign." (See sign requirements set out in Section 3(c) herein.)
- (b) When a sponsor elects to not use the sign described in (a) above, the sponsor may acknowledge the contribution on either (i) a single two-sided sign post or end cap attached to the item sponsored with a non-retroreflective principal logo that is no larger than 26 by 30 inches in size, or (ii) a non-retroreflective 26 by 30 inch principal logo placed on each of two opposing sides or walls of the item sponsored. In each placement, the logo must conform to the content requirements of this policy (See Section 3(c)(1)(b)(i) and (ii) through (vii)) and the size of the logo must be included in the calculation of the maximum area for sponsorship identifications, 32 square feet, as required in subsection (c) below.
- (c) In addition to either (a) or (b), Sponsors' contributions to a public transportation project may also be acknowledged on sponsored items so long as the acknowledgements

conform to the size and other requirements that apply to bus shelter “public service signs” set out in 23 CFR § 750.153q. (A current version of the CFR provisions of “public service signs” is attached to this policy as Attachment A.) The calculation of the 32 square feet of maximum area of acknowledgements includes the size of any acknowledgement logo under subsection (b) above. Those requirements include the right to display sponsorship messages competitively awarded with a process that allows all potential sponsors a fair opportunity to bid. Any messages under this subsection must only be identifiable to pedestrians in the immediate vicinity of the item sponsored and shall not be readily identifiable to persons stopped or traveling on the adjoining public street, road or highway. For a discussion of outdoor advertising and this policy, see Attachment B.

3. Policy on Sponsorship Acknowledgment and Agreements

a. General Principles

- (1) It is NDOR’s policy to allow the use of signs or plaques to acknowledge the provision of highway or transportation related services or funding under both corporate and volunteer sponsorship programs as described herein and as allowed by Federal policy or law. Good, basic engineering practices will be followed, such as simplifying sign message content, using reasonable sign sizes as specified in the provisions of the MUTCD and this policy, and minimizing driver distraction. From an MUTCD standpoint, the signs should be situated so as not to create driver distraction or to obstruct drivers’ view of pedestrians.
- (2) This policy recognizes a distinction between signing intended as advertising and signing intended as a sponsorship acknowledgment. Advertising generally has little, if any, relationship to a highway service provided. Instead, the advertiser seeks to get its recognizable message, company emblem, or logo before the public, and if possible, information on how or where to obtain the company’s products or services. In most cases, if the sign goes beyond recognizing the company’s contribution to a particular highway service, the sign is more properly classified as an advertising sign and not as an acknowledgment sign. Accordingly, advertising is not allowed on an acknowledgment sign or plaque. Further, the sign must not include telephone numbers, Internet addresses, or directional information.
- (3) This policy is based on safety and operational concerns, particularly as related to driver distraction. Highway signs and other traffic control devices convey crucial information. In order for road users to perceive and respond appropriately to critical information, the driver’s attention to highway signs and other traffic control devices must be preserved so that the safe and orderly movement of traffic is not compromised.
- (4) The provisions of this policy apply to new installations and are intended to promote a degree of uniformity and consistency. Existing acknowledgment signs already

installed prior to this policy may remain in place. When any previously existing sign is no longer in working order or when a modification of the sponsor name or logo on the existing acknowledgment sign occurs for any reason, the new acknowledgment sign shall follow this policy.

- (5) All sponsorship activities shall be in compliance with Federal, State, and Local laws and regulations including, but not limited to authorities outlined in Section 5 of this policy.
 - (a) NDOR will screen potential sponsors for compliance with Federal and State nondiscrimination laws, regulations, and policies. The sponsor shall comply with Federal and State laws prohibiting discrimination based on race, religion, color, age, sex, national origin, and other applicable laws. Further, sponsors shall not denigrate groups based on race, religion, color, age, sex, national origin, and other applicable laws.
 - (b) No sponsorship may promote the use of, or activity in, alcohol, tobacco, drugs, gambling, sexual material, or of any illegal activity or substance. Sponsorship shall not be related to a political candidate or a political party.
 - (c) Include types of sponsors that are acceptable and consistent with applicable Federal, State and Local laws.
- (6) All sponsorship activities will require a sponsorship agreement between the Recipient Agency and the sponsoring organization (Sponsor).
- (7) Revenue from the project or program in receipt of Federal funding shall be used for any Title 23 USC project. Revenue from these projects or programs may be used for operations (except salaries) and maintenance, capitol re-investment, or other uses approved by the NDOR and FHWA. In the event that revenue is generated from sponsorships, that revenue shall be used for highway purposes as determined by the NDOR and FHWA.

b. Sponsorship Agreements

In order to be eligible for acknowledgment within the highway right-of-way, sponsorship agreements shall follow these principles:

- (1) Sponsorship agreements may allow sponsors to provide products, services, or financial contributions.
- (2) Sponsorship agreements may be of any duration, however, these agreements should:
 - (a) Be economically viable and provide a net benefit to the public, and;
 - (b) Include provisions for maintenance and, when appropriate, removal of physical elements of the sponsorship acknowledgment after the agreement expires or the sponsor withdraws.
- (3) Include a termination clause for sponsorship agreements based on:

- (a) Safety concerns;
 - (b) Interference with the free and safe flow of traffic, or
 - (c) A determination that the sponsorship agreement or acknowledgment is not in the public interest.
- (4) Agreements can be applicable to a highway site, a highway corridor, or a specific highway operation. If a sponsor is making a financial contribution, the recipient agency needs to identify specific highway sites, corridors, or operations supported by the financial contribution in the sponsorship agreement.
- (5) All sponsorship agreements involving the Interstate highway system should be approved by the FHWA Division Administrator.

c. Acknowledgment Signs and Acknowledgment Plaques

General Background

NDOR may acknowledge sponsors with acknowledgment signs or official acknowledgment plaques on NDOR highway rights-of-way. A Local Public Agency that adopts this policy, may acknowledge sponsors with acknowledgement signs or plaques on Federal aid roads under such local agency's jurisdiction.

- (1) Design of sign: The design of the official sponsorship sign or plaque on a traditional highway sign post shall conform to the requirements of the MUTCD and shall meet the following requirements:
- (a) Official devices used for traffic control, acknowledgment signs and acknowledgment plaques shall only take the form of static, non-changeable, non-electronic legends.
 - (b) Sponsorship acknowledgment logos shall meet the requirements shown in 2H.08 of the MUTCD or as otherwise referenced. Specifics include:
 - i. The portion of the sign acknowledging the sponsor may include a name or logo, as long as the name or logo conforms to the MUTCD provisions on business logos in Chapter 2J of the MUTCD.
 - ii. The logo shall not exceed 1/3 of the total area of the sign and shall be a maximum of 8 square feet.
 - iii. When a graphic logo is used to represent the sponsor, the logo shall be the principal trademarked official logo that represents the corporate name of the sponsor. Secondary logos or representations -- even if trademarked, copyrighted, or otherwise protected, are classified as promotional advertising and shall not be allowed in accordance with Section 1A.01 of the MUTCD.
 - iv. Shall not display any directional information.
 - v. Shall not display telephone numbers, internet addresses, or other legends prohibited by the MUTCD.

- vi. Shall not include any advertising message beyond what is allowed in this policy or the MUTCD. Only primary business names or logos will be allowed. An alternative business name whose sole or primary purpose appears to be to circumvent the provisions of the MUTCD is classified as promotional advertising rather than an acknowledgment of a sponsoring entity of a highway-related service. In accordance with Section 1A.01 of the MUTCD, promotional advertising shall not be allowed per this policy.
- vii. Acknowledgment signs or acknowledgment plaques that include displays mimicking advertising shall not be allowed. The determination of whether a sign mimics or constitutes advertising will be made by the NDOR.
- viii. In accordance with Section 2H.08 of the MUTCD, NDOR may adopt a brief jurisdiction-wide program slogan that may be displayed on an acknowledgment sign. The slogan displayed is that of the program name. Slogans for companion, supplementary, or other programs unrelated to the service being sponsored shall not be displayed on any acknowledgment sign or acknowledgment plaque.

(c) Color of sign:

- i. Sign background shall be blue as depicted in Figure 2H-5 of the MUTCD.
- ii. Sign lettering shall be white.

(d) Size of sign:

- i. Shall not exceed 24 square feet.

(e) Lettering for sign:

- i. Except for the lettering, if any, on the sponsorship acknowledgment logo, lettering shall be upper-case letters, shall meet all font and lettering requirements of the MUTCD and be approved by the NDOR Traffic Engineering Division.

(f) Layout:

- i. The layout shall closely resemble the examples shown in Section 2H.08, Figure 2H-5.

(2) Location of Signs: The location of the acknowledgment sign or plaque shall conform to the requirements of the MUTCD and shall meet the following requirements:

- (a) Must be placed on or in close proximity to the site or infrastructure being sponsored and meet all placement criteria for acknowledgment signs as covered in Chapter 2 of the MUTCD.
- (b) Because acknowledgment signs or plaques are lower priority devices, the NDOR reserves the right to reject any request for placement of

acknowledgment signs or plaques on the state highway system at its sole discretion.

- (c) Sign location shall be carefully considered to avoid places where key warning, regulatory or directional decisions are being considered by a driver. These acknowledgment signs should not be placed at key decision points where a driver's attention is more appropriately focused on traffic control devices, roadway geometry, or traffic conditions. Engineering judgment should be used. Prior to placement of an acknowledgment sign or plaque, NDOR's Traffic Engineering Division shall approve the proposed sign and proposed sign's location for conformance to these rules and the MUTCD.
- (d) Acknowledgment sign plaque messages should not be interspersed, combined, or alternated with other official traffic control messages, either in the same display space, by adjacency in the same assembly or by adjacency of multiple assemblies whose longitudinal separation does not meet the placement criteria contained in the MUTCD, including when placed on opposite sides of the roadway facing the same direction of travel.
- (e) When located on a bikeway or shared-use path, acknowledgment signs or plaques should also be appropriately sized with the legibility needs of the bikeway or path user.

4. Definitions

- a. **Acknowledgment plaques.** Plaques that are intended only to inform the traveling public that a highway-related service, product, or monetary contribution has been sponsored by a person, firm, or entity. Acknowledgment plaques are installed only in the same sign assembly below a primary sign that provides the road user specific information on accessing the service being sponsored. Consistent with the MUTCD, a plaque legend is displayed on a separate substrate from that of the sign below which it is mounted.
- b. **Acknowledgment signs.** Signs that are intended only to inform the traveling public that a highway-related service, product, or monetary contribution has been sponsored by a person, firm, or entity. Acknowledgment signs are installed only as independent sign assemblies or when chosen, may be attached to the sponsored item.
- c. **Advertisements/advertising signs.** Signs or other devices that promote commercial products or services through slogans, information on where to obtain the products and services, or other means.
- d. **Driver distraction.** Driver inattention to the driving task at hand, resulting from internal or external events or actions.
- e. **FHWA.** The Federal Highway Administration, whose Nebraska Division office will provide review and approval for this policy.
- f. **Highway.** Any street or roadway that is open to public travel.
- g. **Highway right-of-way.** A strip of property, owned by a highway agency, within which a highway (as defined above) exists or is planned to be built. The highway right-of-way consists of all lands within the defined highway right-of-way limits, including airspace

above and below the facility. This area typically includes, but is not limited to, the roadway(s), shoulders, and sidewalk(s), if any; areas for drainage, utilities, landscaping, berms, and fencing; rest areas; and the defined clear zone.

- h. **Recipient agency.** An organization that directly receives the highway-related service, product, or monetary contribution from the sponsor entity. The recipient might be the local public agency or Metropolitan Planning Organization.
- i. **Sponsorship agreement.** An agreement between a recipient agency and a sponsoring organization to be acknowledged for the provision of a highway-related service, product, or monetary contribution.
- j. **Sponsorship program.** A program that allows a person, a firm, or an entity to sponsor an element of a highway agency's highway operation through the provision of highway-related services, products, or monetary contributions.

5. Authorities governing this policy

- a. Title 23, United States Code (U.S.C.), Section 109(d), Standards for Federal-Aid Highways.
- b. Title 23, Code of Federal Regulations (CFR), Section 1.23(b), Rights-of-way.
- c. 23 CFR Part 655, Subpart F, Traffic Control Devices on Federal-Aid and Other Streets and Highways.
- d. 2009 Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), published by FHWA under 23 CFR Part 655, Subpart F.
- e. 2011 Nebraska Supplement to MUTCD.
- f. 23 CFR 655.603, Standards for Traffic Control Devices on Federal-Aid and Other Streets and Highways.
- g. 23 CFR Part 750, Highway Beautification (for controlled routes).
- h. 49 CFR 1.48(b), Delegations to Federal Highway Administrator.
- i. FHWA Order 5160.1A "Policy on Sponsorship Acknowledgment and Agreements within the Highway Right-of-Way", dated April 7, 2014.

Attachment A

23 CFR § 750.153 Definitions.

For the purpose of this part: ...

- (q) *Public service signs* means signs located on school bus stop shelters, which signs:
- (1) Identify the donor, sponsor, or contributor of said shelters
 - (2) Contain public service messages, which shall occupy not less than 50 percent of the area of the sign;
 - (3) Contain no other message;
 - (4) Are located on school bus shelters which are authorized or approved by city, county, or State law, regulation, or ordinance, and at places approved by the city, county, or State agency controlling the highway involved; and
 - (5) May not exceed 32 square feet in area. Not more than one sign on each shelter shall face in any one direction.

Attachment B

Outdoor Advertising

Federal law requires that Nebraska regulate outdoor advertising signs that are visible from the Highway Beautification Control System (HBCS). Outdoor advertising issues are managed by the NDOR ROW Division. It is expected that there will be pedestrian type advertising on the bicycle and bicycle dock/kiosks stations and some of the stations will be located on right-of-way for the HBCS. NDOR expects that the advertising message on the dock/kiosks stations will be the same as found on bus shelters. (See 23 CFR § 750.153q) Kevin Sylvester of the FHWA MUTCD Team stated, "Regarding the specifics of what is displayed on the kiosk, outdoor advertising control principles still apply regarding appropriate use of the right-of-way. Based on that premise, if something is not a traffic control device (i.e., they are not using an acknowledgment sign in compliance with the MUTCD and the Order), then the sponsor acknowledgment should not be visible to the traffic in the roadway by orienting and sizing to target the pedestrians and patrons along the sidewalk." From an MUTCD standpoint, the signs should be situated so as not to create driver distractions or to obstruct the drivers' views of pedestrians.

NDOR understands that FHWA believes that there is no "control of outdoor advertising" issue with advertising on the bicycle dock/kiosk stations so long as such advertising conforms to the requirements of bus shelters advertising. Those requirements include the right to display sponsorship messages competitively awarded with a process that allows all potential sponsors a fair opportunity to bid. Also, NDOR understands that the bicycles are likely to include simple sponsorship advertising and that they are treated like buses are treated for the purpose of outdoor advertising. Advertising proposals shall be developed by LPA and submitted to State and FHWA for review and approval in advance.