

EXHIBIT "A"

08-0202

FILED

MAY 8 2008

AGREEMENT

LANC COUNTY CLERK

THIS AGREEMENT is entered into by and between the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "the City," and the County of Lancaster, Nebraska, a political subdivision of the State of Nebraska, hereinafter referred to as "the County."

WHEREAS, the Interlocal Cooperation Act, Neb. Rev. Stat. § 13-801 *et seq.* (Reissue 1997), permits units of local government in the State of Nebraska to cooperate with other localities on a basis of mutual advantage and thereby provide services in a manner that will best serve local communities; and

WHEREAS, pursuant to *Neb. Rev. Stat. §15-229*, the City has the authority to acquire, either temporarily or permanently, lands, real or personal property or any interests therein, or any easements deemed to be necessary or desirable for any present or future necessary or authorized public purpose within or without the city by gift, agreement, purchase, condemnation, or otherwise; and

WHEREAS, Lancaster County and the City of Lincoln are responsible for providing road improvement and maintenance to the streets and roads located within their respective jurisdictions; and

WHEREAS, the County and the City agree that it is mutually beneficial for the widening and reconstruction of South 70th Street which is more particularly described as South 70th Street from a point 600 feet South of Country View Lane to Yankee Hill Road; and

WHEREAS, a portion of the proposed construction is located within the County and the City seeks the approval of the County to proceed with construction.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is agreed between the parties as follows:

1) Length. The length of this Agreement shall be from the date of execution until the completion of the above described paving project, estimated to be the Fall of 2008. The City's responsibility for maintenance of the new section of South 70th Street shall survive termination of this Agreement or expiration of this Agreement.

2) Purpose. The purpose of this Agreement is to provide for the widening and reconstruction of the South 70th Street project, including the acquisition of needed right-of-way, and the establishment of maintenance responsibilities thereafter. The project lies partially outside the City limits of the City of Lincoln.

3) Responsibilities. The County will have the following duties and responsibilities:

- A. The County shall give permission to the City for the widening, including the acquisition of any needed right-of-way, and reconstruction work diagramed in Attachment "A", which is attached hereto and incorporated by this reference.

The City will have the following responsibilities:

- A. The City shall be responsible for the cost of widening, including the acquisition of any needed right-of-way, and reconstruction work which is described herein and diagramed in Attachment "A". Needed right-of-way may be acquired by the City through condemnation if necessary.
- B. The City is responsible for ensuring that the paving and construction work is completed as described herein and diagramed in Attachment "A".
- C. The City shall be responsible for all maintenance of what is diagramed in Attachment "A" as the new section of South 70th Street. This responsibility shall survive the termination of this Agreement or expiration of this Agreement.
- D. Title - All land acquired for right-of-way pursuant to this agreement shall be held in the name of the County for public right-of-way, until annexed by the City.

4) Compensation. The County gives the City permission for the widening, including acquisition of needed right-of-way by the City through condemnation if necessary, and reconstruction work described herein. The City shall be responsible for all of the cost of the widening, including acquisition of needed right-or-way, and reconstruction work described herein. The City shall also be responsible for maintenance of the new section of South 70th Street.

5) Independent Contractor. It is the express intent of the parties that this Agreement shall not create an employer-employee relationship. Employees of the City shall not be deemed to be employees of the County and employees of the County shall not be deemed to be employees of the City.

6) Assignment. Neither the County nor the City shall assign its duties and responsibilities under this Agreement without the express written permission of the other party to this agreement. It is expressly understood and agreed to by the parties that the City may subcontract the paving and construction services outlined herein.

7) Construction Area Control. To the extent permitted by law, the County relinquishes control of the construction area to the City and its Contractors during the period of construction. The design, construction, placement of barricades, and posting of warning signs in the area of construction will be the responsibility of the City. This shall include the placement of construction equipment and any obstacles which are created as a result of the construction project. The placement of barricades and warning signs shall be in compliance with the Manual on Uniform Control Devices and the 1997 English Edition of the Standard Specifications of Highway Construction and the Supplemental Specifications dated July 12, 2001, of the State of Nebraska. To the extent permitted by law, the City expressly accepts control of the construction area, such control shall include, but not be limited to, barricades, road crossings, construction equipment and any obstacles created during construction of the project.

8) Hold Harmless. Each party agrees to indemnify and hold harmless, to the fullest extent allowed by law, the other party and its principals, officers, and employees from and against all claims, demands, suits, actions, payments, liabilities, judgments and expenses (including court-ordered attorneys' fees), arising out of or resulting from the acts or omissions of their principals, officers, or employees in the performance of this Agreement. Liability includes any claims, damages, losses, and expenses arising out of or resulting from performance of this Agreement that results in any claim for damage whatsoever including any bodily injury, civil rights liability, sickness, disease, or damage to or destruction of tangible property, including the loss of use resulting therefrom. Further, each party shall maintain a policy or policies of insurance (or a self-insurance program), sufficient in coverage and amount to pay any judgments or related expenses from or in conjunction with any such claims. Nothing in this Agreement shall require either party to indemnify or hold harmless the other party from liability for the negligent or wrongful acts or omissions of said other party or its principals, officers, or employees.

9) Subcontractors. The City agrees to require any contractors or subcontractors, providing services under this agreement, to indemnify and hold the County harmless to the same extent and as provided in Section 8, of this Agreement.

10) Severability. If any portion of this Agreement is held invalid, the remainder hereof shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

11) Equal Employment Opportunity. In connection with the carrying out of the activities provided herein, neither the County nor the City shall discriminate against any bidder, employee, applicant for employment, or any other person because of race, color, religion, sex, disability, national origin, age, marital status or receipt of public assistance.

12) Termination. This Agreement may be terminated at any time by either party giving sixty (60) days written notice.

13) The City further agrees that it shall require its contractors and subcontractors, providing services under this Agreement, to agree to the following clause by including it in its subcontractor agreements:

Independent Contractor. It is the express intent of the parties that this Agreement shall not create an employer-employee relationship, and the Contractor, or any employees or other persons acting on behalf of the Contractor in the performance of this Agreement, shall be deemed to be independent contractor(s) during the entire term of this Agreement or any renewals thereof. It is agreed between the parties that the designated staff shall at all times continue to be employees of the Contractor for the duration of the Agreement. The Contractor shall be responsible for all salary and benefits payable under this Agreement and the Contractor's employees shall not be entitled to any salary from the City or the County or to any benefits made to City or County employees, including, but not limited to, overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. The Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance and any applicable malpractice insurance coverage for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to the employee's compensation.

14) The City shall require any contractors and subcontractors, providing services under this Agreement, to agree to the insurance clause to be used for all City contracts, as provided in Attachment "B" attached hereto and incorporated by this reference.

The Contractor shall not commence work under this Agreement until it has obtained all insurance required pursuant to Attachment "B" and has provided the City and the County with a Certificate of Insurance showing the specific limits of insurance required by Attachment "B" and showing the City of Lincoln and Lancaster County as an additional insured. Such certificate shall specifically state that Insurance policies are to be endorsed to require the insurer to provide the City of Lincoln and Lancaster County thirty (30) days notice of cancellation, non-renewal or any material reduction of insurance coverage.

15) This agreement constitutes the entire agreement between the parties with respect to the subject matter herein and merges all prior discussions between them. It shall not be modified except by written agreement dated subsequent to the date of this Agreement and signed by all parties.

EXECUTED this 13 day of May, 2008, by Lancaster County, Nebraska.

By: Bob Workman
Bob Workman, Chair
Lancaster County Board of
Commissioners

APPROVED AS TO FORM:

This 13 day of
May, 2008.

Norman Fox
Deputy County Attorney
for GARY E. LACEY
County Attorney

EXECUTED this _____ day of _____, 2008, by the City of Lincoln,
Nebraska.

City of Lincoln

By: _____
Mayor Chris Beutler

APPROVED AS TO FORM:

This _____ day of _____, 2008.

City Attorney
JOHN HENDRY

SCHEMMER
SURVEYING & ENGINEERING, P.A.
200 W. 10th Street, Suite 100
Lincoln, NE 68502
Phone: 402.441.1111
Fax: 402.441.1112

PROJECT NO. 15-001
SHEET NO. 1
DATE: 11/11/11
BY: J. S. Schemmer
CHECKED: J. S. Schemmer

CAMP DRAINAGE CURBLET & TYPE 'A' HEADWALL

NO.	STATION	OFFSET	DESCRIPTION	HEADWALL SHEET
1	10+48.00	3.00 LI	EXTEND BY CASTING PIPE	47 LB
2	10+78.00	20.00 RT	TYPE 'A' HEADWALL ONLY	65 10

CONCRETE CURB DATA

NO.	STATION	OFFSET	TYPE	CONCRETE	FORM	FINISH
1	10+48.00	3.00 LI	TYPE 'A'	4" CONC	FORM	SMOOTH
2	10+78.00	20.00 RT	TYPE 'A'	4" CONC	FORM	SMOOTH

PAVEMENT CURVE DATA

STATION	PC	PT	PI	LC	LC	LC	LC	LC
10+00.00	10+00.00	10+00.00	10+00.00	10+00.00	10+00.00	10+00.00	10+00.00	10+00.00

REMOVE PAINT MARKING, 4"

STATION	TO	FROM	TYPE
7+50.00	7+50.00	7+50.00	PAINT MARKING

PAVEMENT AND SIDEWALK REMOVAL

STATION	TO	FROM	TYPE
7+50.00	7+50.00	7+50.00	PAVEMENT REMOVAL

TYPE 'A' SAWING

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	TYPE 'A' SAWING

TYPE F BEDDING

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	TYPE F BEDDING

2 STANDARD GROUND END BARRIERS

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	STANDARD GROUND END BARRIERS

9 12" ASPHALTIC CONCRETE PAVEMENT CLASS 2 (7" BASE)

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	ASPHALTIC CONCRETE PAVEMENT CLASS 2

STREET RETURN CURVE DATA

NO.	STATION	PC	PT	PI	LC	LC	LC	LC
1	10+00.00	10+00.00	10+00.00	10+00.00	10+00.00	10+00.00	10+00.00	10+00.00

REMOVE TRANSVERSE SEGMENT BARRIER

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	REMOVE TRANSVERSE SEGMENT BARRIER

REMOVE TRANSVERSE SEGMENT BARRIER

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	REMOVE TRANSVERSE SEGMENT BARRIER

REMOVE TRANSVERSE SEGMENT BARRIER

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	REMOVE TRANSVERSE SEGMENT BARRIER

REMOVE TRANSVERSE SEGMENT BARRIER

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	REMOVE TRANSVERSE SEGMENT BARRIER

REMOVE TRANSVERSE SEGMENT BARRIER

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	REMOVE TRANSVERSE SEGMENT BARRIER

REMOVE TRANSVERSE SEGMENT BARRIER

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	REMOVE TRANSVERSE SEGMENT BARRIER

REMOVE TRANSVERSE SEGMENT BARRIER

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	REMOVE TRANSVERSE SEGMENT BARRIER

REMOVE TRANSVERSE SEGMENT BARRIER

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	REMOVE TRANSVERSE SEGMENT BARRIER

REMOVE TRANSVERSE SEGMENT BARRIER

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	REMOVE TRANSVERSE SEGMENT BARRIER

REMOVE TRANSVERSE SEGMENT BARRIER

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	REMOVE TRANSVERSE SEGMENT BARRIER

REMOVE TRANSVERSE SEGMENT BARRIER

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	REMOVE TRANSVERSE SEGMENT BARRIER

REMOVE TRANSVERSE SEGMENT BARRIER

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	REMOVE TRANSVERSE SEGMENT BARRIER

REMOVE TRANSVERSE SEGMENT BARRIER

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	REMOVE TRANSVERSE SEGMENT BARRIER

REMOVE TRANSVERSE SEGMENT BARRIER

STATION	TO	FROM	TYPE
8+10.00	8+10.00	8+10.00	REMOVE TRANSVERSE SEGMENT BARRIER

INSURANCE CLAUSE FOR ALL COUNTY CONTRACTS

The Contractor shall indemnify and hold harmless, to the fullest extent allowed by law, Lancaster County, Nebraska, its agents, employees and representatives from all claims, demands, suits, actions, payments, liability, judgments and expenses (including court-ordered attorney's fees), arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, civil rights liability, or damage to or destruction of tangible property, including the loss of use resulting therefrom, that are caused in whole or in part by the Contractor, any subcontractor, or any agents or representatives, either directly or indirectly employed by them.

Contractor shall not commence work under this contract until he has obtained all insurance required under this Section and such insurance has been approved by LANCASTER COUNTY, nor shall the Contractor allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained and approved.

- A. Workers' Compensation Insurance and Employer's Liability Insurance: The Contractor shall take out and maintain during the life of this contract the applicable statutory Worker's Compensation Insurance, and in the case of any work sublet, the Contractor shall require the subcontractor similarly to provide statutory Worker's Compensation Insurance for the latter's employees. Coverage shall be provided by an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each of his subcontractors similarly to maintain Employer's Liability Insurance similarly to the Contractor.

Workers' Compensation - Required limits:

Coverage A - Coverage will include Statutory requirements

Coverage B - Employers Liability

\$100,000 Each Person

\$100,000 Each Person by Disease

\$500,000 Policy Limit - Disease

- B. General Liability Insurance

1. The Contractor shall maintain during the life of this contract, Commercial General Liability Insurance, naming and protecting him and Lancaster County against claims for damages resulting from (a) bodily injury, including wrongful death, and (b) property damage which may arise from operations under this contract whether such operations be by himself or by any subcontractor or anyone directly or indirectly employed by either of them. The insurance requirements are:

Commercial General Liability (form CG0001 or equivalent) with limits of:

\$1,000,000 Each Occurrence

\$1,000,000 Personal Injury

\$2,000,000 Products/Completed Operations

\$2,000,000 General Aggregate

and:

2. Coverage shall include Contractual Liability coverage insuring the contractual exposure as addressed in this contract.
3. There shall be no exclusion or limitation for the Explosion (X), Collapse (C) and Underground (U) hazards.

4. Coverage shall also include Products/Completed Operations.
 5. Lancaster County shall be named as Additional insured (CG2010 or equivalent).
 6. The Commercial General Liability coverage shall be endorsed with the Designated Construction Project(s) General Aggregate Limit endorsement (CG 25 03 or equivalent).
- C. Automobile Liability Insurance: The Contractor shall take out and maintain during the life of the contract such Automobile Liability Insurance as shall protect him against claims for damages resulting from (a) bodily injury, including wrongful death, and (b) property damage which may arise from the operations of any owned, hired, or now-owned automobiles used by or for him in any capacity in connection with the carrying out of this contract. The minimum acceptable limits of liability to be provided by such Automobile Liability Insurance shall be as follows:
- Bodily Injury and Property Damage 1,000,000 Combined Single Limit
- D. Builder's Risk Insurance: **(For Building Construction Contracts Only)** Unless otherwise specified where buildings are to be constructed under this contract, the Contractor shall provide coverage for all direct physical loss (also known as "Special Causes of Loss"). Such insurance shall be written on a Replacement Cost basis covering such building in the amount equal to one-hundred percent (100%) of the contract amount (minimum) as specified herein. Losses, if any, shall be made payable to LANCASTER COUNTY and Contractor as their interest may appear. A certificate of insurance evidencing such insurance coverage shall be filed with LANCASTER COUNTY by the time work on the building begins and such insurance shall be subjected to the approval of LANCASTER COUNTY.
- E. Minimum Scope of Insurance: All Liability Insurance policies shall be written on an "Occurrence" basis only. All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has A.M. Best's Rating of no less than A:VII unless specific approval has been granted by LANCASTER COUNTY.
- F. Certificate of Insurance: All Certificates of Insurance shall be filed with LANCASTER COUNTY on the standard ACCORD CERTIFICATE OF INSURANCE form showing the specific limits of insurance, coverage modifications and endorsements required by the preceding Sections A, B, C, D and showing LANCASTER COUNTY is an additional insured where required. Such certificate shall specifically state that insurance policies are to be endorsed to require the insurer to provide LANCASTER COUNTY thirty days, notice of cancellation non-renewal or any material reduction of insurance coverage.

The original certificate shall be provided to Lancaster County as designated and a copy to: Office of Risk Management, Lancaster County (555 So. 9th Street, Lincoln, NE 68508)