

AGREEMENT

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 2012), 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. § 38-1402* (Reissue 2008), the supervision and control of the public roads of each county is vested in the county board; and

WHEREAS, pursuant to *Neb. Rev. Stat. § 15-701* (Reissue 2012), the City has the supervision and control of public streets located within the corporate boundaries of the City and the City has authority to adopt standards to be applied to the repair, maintenance, and construction of said city streets; 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 City and County to cooperate in completing various road construction, improvement, and/or road maintenance projects involving right of way that is outside the corporate limits of the city but within the three mile extraterritorial jurisdiction of the City of Lincoln; and

WHEREAS, there are situations where a portion of the proposed roadway construction, improvement, and/or maintenance is located outside the corporate limits of the city but within the county and the City requires the approval of the County to proceed with said construction, improvement, and/or maintenance.

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

1) Term and Termination. This Agreement shall be in full force and effect from July 1, 2014 to June 30, 2015, and the Agreement shall automatically renew each year unless terminated by either party. Either party may terminate this Agreement by giving the other party not less than thirty (30) days written notice of intention to terminate prior to the ending of the County's fiscal year, which occurs on July 1<sup>st</sup> of each year.

2) Purpose. The purpose of this Agreement is to provide for construction, improvement, and/or maintenance on various roadways located partially within the County's jurisdiction.

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

- A. The County acting through the County Engineer shall, at the City's request, give permission to the City for roadway ~~grading~~ construction, improvement, and/or maintenance work on various roadways within the three mile extraterritorial zoning jurisdiction of the City of Lincoln upon a case by case review of the Lancaster County Engineer.
- B. The County will be responsible for continued maintenance of that portion of the roadway, including the ongoing costs associated therewith, within its jurisdiction following completion of the project.
- C. The County will have no financial obligation as it relates to the specific project work performed by the City.
- D. Following City's notification to the County of completion of the City's work described herein, the County shall inspect the constructed roadway, and upon satisfaction that the standards described herein have been met, the County shall notify the City, in writing, of its acceptance of the roadway as constructed. If the County refuses to accept said roadway as constructed because said road fails to meet standards stated herein, it must notify the City Engineer of the standard(s) not met. The City shall then have 30 days to commence correction of the problems identified. Upon correction of those deficiencies identified, the City shall submit the roadway for the County's approval according to this section. Failure to notify the City of its acceptance or denial within 14 days of the City submitting the roadway to the County shall automatically be deemed acceptance by the County of the roadway as constructed.

The City will have the following responsibilities:

- A. The City shall be responsible for the entire cost of the roadway work within the county and city for any construction, improvement, and/or maintenance project completed by the City with the consent of the County according to the terms of this Agreement.
- B. The City shall be financially and administratively responsible for any right of way acquisition resulting from the roadway project(s).
- C. The City is responsible for ensuring that the roadway construction, improvement, and/or maintenance work is completed in accordance with the current City of Lincoln Standard Specifications for Municipal Construction and the Minimum Design Standards of the Board of Public Roads Classification.

4) Consideration. The County gives the City permission to perform construction, improvement, and/or maintenance work described herein on various roadways within the City's three mile extraterritorial zoning jurisdiction. The City shall be responsible for all of the cost of the roadway construction, improvement, and/or maintenance work described herein as described above. The County and City shall continue to be responsible for maintenance of their respective portions of the roadways following completion of the project(s).

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 services outlined herein.

7) 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.

8) 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 7 of this Agreement.

9) This Agreement shall in no way replace or supersede the Interlocal Agreement existing between the County of Lancaster and City of Lincoln approved by the Lincoln City Council on March 6, 2006 by Resolution No. A-83763.

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) 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 \_\_\_\_ day of \_\_\_\_\_, 2014, by Lancaster County, Nebraska.

Lancaster County, Nebraska

By: \_\_\_\_\_  
Larry Hudkins, Chair  
Lancaster County Board of  
Commissioners

APPROVED AS TO FORM:  
This \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Deputy County Attorney  
for JOE KELLY, County Attorney

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2014, by the City of Lincoln, Nebraska.

City of Lincoln, Nebraska

By: \_\_\_\_\_  
Mayor Chris Beutler

APPROVED AS TO FORM:  
This \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
City Attorney