

AGREEMENT

THIS AGREEMENT is entered into by and between the Lancaster Rural Water District No. 1 of Bennet, Nebraska, hereinafter referred to as "the Utility," and the County of Lancaster, Nebraska, a political subdivision of the State of Nebraska, hereinafter referred to as "the County." Collectively the County and the Utility may be referred to as "the Parties," and individually each may be referred to as a "Party."

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;

WHEREAS, The County has plans for certain construction work on South 82nd Street; and

WHEREAS, said construction has been designated as Project No. C55-404(4); and

WHEREAS, the Utility owns and operates a water line facility along and adjacent to a portion of this project, some of which is resting outside the limits of the old road right-of-way and on private property; and

WHEREAS, because of the widened right-of-way which the County has acquired for the new construction and because of the construction itself, it becomes necessary for the Utility to adjust some, if not all, of its facility along this project; and,

WHEREAS, the Utility is willing to rehabilitate its facility where necessary in accordance with the conditions hereinafter provided in this Agreement; and,

WHEREAS, the County is willing to reimburse the Utility for its actual non-betterment costs involved in the rehabilitation of its facility where same is presently located outside of the old public right-of-way and on private property.

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

- 1) The Utility hereby agrees to furnish or cause to be furnished all of the tools, labor, equipment, and materials necessary for the rehabilitation of its facility including the removal of all known obstacles including anchor rods, if applicable, as made necessary by the highway plans and work of the County.
- 2) Where applicable, the County has indicated on its plans the known location of underground facilities belonging to the Utility along and adjacent to this project. The Utility may have other underground facilities which are not shown on these plans which may require relocation or adjustment due to the proposed construction of this project. Utility agrees to locate all additional underground facilities which are not shown on County's plans. The additional underground facilities located by Utility will be shown on the rehabilitation plans prepared by the Utility and will include the new locations of the Utility.
- 3) Prints of the construction plans for this project, (C55-S-404(4)) showing the currently known location of Utility facilities referred to in Paragraph 2 have been forwarded to the Utility and are by this reference hereby made a part of this Agreement.
- 4) The County agrees to reimburse the Utility for its actual non-betterment costs involved in relocating those "Utility" facilities which are presently located outside of the old public right-of-way and on private property and which must be moved or adjusted to accommodate project construction.

- 5) The description of work to be performed and the estimate of costs prepared by the Utility are attached as Exhibit "A" and hereby made a part of this Agreement. The total amount of this estimate is \$154,254.00 of which \$154,254.00 is estimated to be the share of the cost chargeable to the County. The County's share of costs shall not exceed \$154,254.00 unless a greater amount is approved by the Lancaster County Board of County Commissioners. The Utility agrees upon completion of the work to submit a billing to the County for its eligible actual costs. The Utility's billing shall be prepared in a manner to allow comparison with the approved estimate.
- 6) The Utility agrees as a part of the above-described estimate to advise the County as to the method which will be used in accumulating the Utility's costs. If this method is prescribed by a federal or state regulatory body, a statement of that effect shall be made by the Utility. If the accounting method is not prescribed by an agency of the state or federal government, it shall be described in the Utility's estimate as approved as a part of this Agreement.
- 7) In the event it should prove impractical to de-energize the Utility facility and relocated or to relocate without de-energizing, the Utility may install a new facility equal in function to the existing facility and remove the existing facility.
- 8) The Utility agrees as part of the estimate referred to in Paragraph 5, to provide the County with a detailed description of the method the Utility intends to employ in performing the necessary rehabilitation work.
- 9) Consistent with the terms and provisions of this Agreement, the County hereby agrees to reimburse the Utility for the rehabilitation of its facilities when such rehabilitation is based upon this Agreement and upon the said approved estimate of the Utility. It is further agreed and understood that the rehabilitation contemplated constitutes a replacement in function of said facilities only and any cost beyond the scope of said functional replacement, made solely for the benefit of and at the election of the Utility to affect a functional or facility betterment and not attributable to roadway construction, shall not be considered to be eligible for County reimbursement.
- 10) If the Utility elects to replace an existing facility with a betterment facility, the County will pay only the eligible costs of the most economical non-betterment methods of rehabilitation necessary to provide functional replacement of the existing utility.
- 11) The Utility agrees, when feasible, to advise the County in writing at least one week prior to the time the Utility expects to begin work on each project. The Utility agrees to promptly advise the County in writing of the date the Utility completes work on each project.
- 12) In consideration of the payment as mentioned in Paragraph 5 of this Agreement, the Utility agrees to relinquish or subordinate sufficient property rights or interests that it may have in property upon which it has an easement or similar right that will be occupied by the proposed County road improvement as necessary for the construction, operation, and maintenance of the road facility.
- 13) The Utility agrees that the invoice will be prepared and submitted in accordance with the approved estimate within 30 days of project completion. The County will pay the invoice within 60 days of receipt.
- 14) It is the express intent of the parties that this Agreement shall not create an employer-employee relationship. Employees of the Utility shall not be deemed to be employees of the County and employees of the County shall not be deemed to be employees of the Utility. The Utility and the County shall be responsible to their respective employees for all salary and benefits. Neither the Utility's employees nor the County's employees shall be entitled to any salary or wages *tram* the other party or to any benefits made to their

employees, including, but not limited to, overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Utility shall also be responsible for maintaining worker's compensation insurance, unemployment insurance, for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employee's compensation.

- 15) 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.
- 16) The Utility further agrees to indemnify and hold the County harmless for any injuries or damage to the affected area and to any individuals, whether directly or indirectly related to the Utility's negligent acts or omissions, including attorney's fees, during installation, maintenance or removal of the utilities or uses outlined herein.
- 17) The Parties agree to require any contractors or subcontractors, providing services under this Agreement, to indemnify and hold the other Party harmless to the same extent and as provided in Paragraph 15 of this Agreement.
- 18) In connection with the carrying out of the activities provided herein, neither the County nor the Utility 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.
- 19) In accordance with Neb. Rev. Stat. 4-108 through 4-114, the Utility agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Utility shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The Utility shall require any subcontractor to comply with the provisions of this section.
- 20) This Agreement may be terminated at any time by either Party giving sixty (60) days advance written notice. However, such termination shall not affect obligations that have been incurred prior to the notice of termination or money owed by either Party for work performed under this Agreement prior to termination.
- 21) Neither Party shall assign its duties and responsibilities under this Agreement without the express written permission of the other Party. Any assignment of any services to be provided herein without the express written permission of the other Party, shall be absolutely void.

- 22) 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.
- 23) County's failure or neglect to enforce any of its rights under this Agreement will not be deemed to be a waiver of County's rights.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their proper officials thereunto duly authorized as of the date below indicated.

EXECUTED this 2ND day of May, 20 19, by the Utility.

By: *James D. Bang*
Lancaster Rural Water

APPROVED AS TO FORM:

This 2ND day of May, 20 19.

[Signature]

Witness

EXECUTED this 2ND day of May, 20 19, by the County.

By: _____
Chair
Lancaster County Board of Commissioners

APPROVED AS TO FORM:

This _____ day of _____, 20____.

Deputy County Attorney
For PATRICK CONDON
County Attorney

CONSTRUCTION ESTIMATE

LANCASTER COUNTY

COMPANY: Lancaster Rural Water District
No. 1

PROJECT NO.: C55-S-404(4)

ADDRESS: P.O. Box 98
Bennet, NE

LOCATION: South 82nd Street
(Roca Road to 3,250'
north of Wittstruck Road)

	QUANTITY	PRICE	TOTAL
1 TRENCH 4"	5000	\$2.60	\$13,000.00
2 4" SDR 21 PVC PIPE	5000	\$1.60	\$8,000.00
3 TRENCH 3"	700	\$2.50	\$1,750.00
4 3" SDR 21 PVC PIPE	700	\$1.40	\$980.00
5 TRENCH 2"	3000	\$2.40	\$7,200.00
6 2" SDR 21 PVC PIPE	3000	\$1.00	\$3,000.00
7 TIE TO EXISTING 8" MAIN	1	\$5,000.00	\$5,000.00
8 FINAL TIE IN 3"	1	\$2,000.00	\$2,000.00
9 BLOW OFF ASSEMBLY PARTS	2	\$2,500.00	\$5,000.00
10 VALVE BOXES	2	\$1,500.00	\$3,000.00
11 PRESSURE CHECK	3	\$500.00	\$1,500.00
12 8" ROAD CROSSING	1	\$7,000.00	\$7,000.00
13 ROAD CROSSING	2	\$5,000.00	\$10,000.00
14 8" YELLOWMINE PVC PIPE	140	\$16.00	\$2,240.00
15 6" YELLOWMINE PVC PIPE	240	\$10.00	\$2,400.00
16 4" YELLOWMINE PVC PIPE	200	\$5.00	\$1,000.00
17 2" YELLOWMINE PIPE	200	\$2.40	\$480.00
18 2" CREEK BORE	1	\$3,000.00	\$3,000.00
19 RELOCATE METER PITS	5	\$2,500.00	\$12,500.00
20 SERVICE CROSSING	1	\$1,500.00	\$1,500.00
21 MAN HOURS	180	\$50.00	\$9,000.00
22 BACK HOE HOURS	60	\$90.00	\$5,400.00
23 SAMPLING	3	\$500.00	\$1,500.00
24 TRACER WIRE	9000	\$0.25	\$2,250.00
25 CREW TRUCK	12	\$60.00	\$720.00
26 LOCATE UTILITIES	5	\$225.00	\$1,125.00
27 FLUSHING & CHLORINATION	2	\$2,000.00	\$4,000.00
28 CONTINGENCIES	1	\$5,000.00	\$5,000.00
DAMAGES	9000	\$1.00	\$9,000.00
ADMINISTRATIVE COST			\$12,854.50
ENGINEERING COST			\$12,854.50