

INTERLOCAL AGREEMENT
3rd and A Street Viaduct

THIS AGREEMENT is made and entered into by and between the Lincoln – Lancaster County Railroad Transportation Safety District (hereinafter the “District”) and the City of Lincoln, Nebraska, a political subdivision of the State of Nebraska (hereinafter the “City”).

WHEREAS, the District operates to further the policy of the State of Nebraska to reduce the number of fatalities and injuries caused by collisions between motor vehicles and railroad trains; to eliminate as far as possible unnecessary conflicts between railroad transportation and highway transportation; to improve the movement of both rail and highway traffic by eliminating grade crossings; and to assist in the relocation of railroad facilities that bisect the central portions of municipalities, thus hampering the growth of both the municipality and the railroad services; in order to benefit and enhance the community as a whole pursuant to *Neb. Rev. Stat. § 74-1301, et seq.*; and

WHEREAS, the District has the right and authority to enter into contracts or other arrangements with municipal corporations making full use of the Interlocal Cooperation Act, *Neb. Rev. Stat. § 13-801 to 13-827* (Reissue 1997) for, among other things, assistance in the design, construction, maintenance, sale, or lease of the works of the District; making surveys and investigations or reports in relation to the objectives of the District; and receiving the title or possession, or both, of any property and funds connected directly or indirectly within the purposes of the District; and

WHEREAS, the District desires to construct a new vehicular and pedestrian viaduct structure over the existing Burlington Northern Santa Fe Railroad (hereinafter “BNSF”) tracks near 3rd and A Streets in Lincoln, Nebraska, including a new superstructure, substructure, roadway approaches, storm sewers and reconstructed street crossings at the BNSF 5th Street spur

track, all to be accomplished under the District's Project No. 2002-01 (hereinafter the "Project"); and

WHEREAS, the City of Lincoln under its Capital Improvements Program and as authorized under Article XV Section 18 of the Nebraska Constitution; the Interlocal Cooperation Act, *Neb. Rev. Stat. § 13-801, et seq.* (Reissue 1997); Article II Section 5 of the City's Charter; and *Neb. Rev. Stat. § 74-1305* acting on its own is willing to cooperate with the District to enter into contracts or other arrangements to provide for the removal of grade crossings, and to acquire right-of-way and construct, maintain and operate protective devices, roadway and related improvements for the Project and otherwise; and

WHEREAS, other than as specifically set forth herein, the District will provide the funding for the above-described Project; and

WHEREAS, the City and the District are mutually benefited by the completion and future maintenance of the Project.

NOW, THEREFORE, the City and the District, pursuant to the Interlocal Cooperation Act, *Neb. Rev. Stat. § 13-801, et seq.*, do hereby agree as follows:

1. Duration. The duration of this Agreement shall be until the completion of all obligations hereunder, in any event, not to exceed three (3) years from the date of execution of this Agreement; provided, however, that the obligations of the City for maintenance of the completed Project as herein specified shall continue thereafter.

2. Purpose. The purpose of this Agreement is to allow the District to coordinate with the City for the purpose of acquiring required easements and/or rights-of-way for the Project, for completing the construction of the viaduct and related improvements as required by the Project, for the City to assume ownership of the Project's structure and appurtenances upon

completion and for the City, at its expense, to thereafter maintain the structure and related improvements constructed pursuant to the Project.

3. Land and Easement Acquisition. The City will acquire and hold title to all necessary easements and rights-of-way for construction of the Project and will use its personnel for the purpose of acquiring such easements and/or rights-of-way, and if necessary will institute condemnation proceedings using its power of eminent domain to acquire such required easements and rights-of-way for the Project. All payments to Landowners for such easements and rights-of-way and any court costs incurred in condemnation proceedings shall be the obligation of the District.

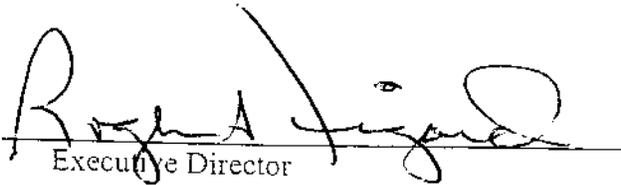
4. Ownership and Maintenance. Upon completion of the Project, the City will assume ownership of the viaduct and all related improvements constructed in accordance with the plans for the Project. Thereafter, the City will assume full responsibility at the City's cost for maintaining the viaduct together with all appurtenances and landscaping included in the Project. The City shall continue to maintain at its cost the viaduct and related landscaping and appurtenances in the same condition as they were in at the time they were accepted by the City, usual wear and tear excepted.

5. Financial Obligations. Other than the costs agreed to be paid by the City for maintaining the viaduct and all appurtenances as specified in paragraph 4 hereof, the District shall be responsible for all costs associated with the construction of the Project. The District shall be entitled to all funds received from the State of Nebraska, Department of Roads, which are identified as reimbursement for costs associated with the Project. In addition, the District shall be entitled to any and all amounts, if any, paid or to be paid by the BNSF to the City in accordance with a Memorandum of Understanding dated May 22, 1997, with respect to

contributions to the Project by the BNSF. The City shall transfer all such monetary contributions received from the BNSF, if any, to the District within thirty (30) days of such receipt for reimbursement of Project costs associated with the construction of the new viaduct.

Executed by the District this 5th day of march, 2002.

LINCOLN-LANCASTER COUNTY RAILROAD
TRANSPORTATION SAFETY DISTRICT

By: 
Executive Director

ATTEST:


Chairperson

Executed by the City this ___ day of _____, 2002.

CITY OF LINCOLN, NEBRASKA

By: _____
Don Wesely, Mayor

ATTEST:

City Clerk