

## AGREEMENT

CITY OF LINCOLN  
STATE OF NEBRASKA DEPARTMENT OF ROADS  
PROJECT NO. S-34-6(1033), STATE CONTROL NO. 12836  
"O" STREET, 45<sup>TH</sup> TO 52<sup>ND</sup> STREET  
ROADWAY RECONSTRUCTION

THIS AGREEMENT, made and entered into by and between the City of Lincoln, hereinafter referred to as the "City", and the State of Nebraska, Department of Roads, hereinafter referred to as the "State".

WITNESSETH:

WHEREAS, the parties desire the improvement of "O" Street, US Highway 34, from 45<sup>th</sup> to 52<sup>nd</sup> Streets, as shown on Exhibit "A" attached, which is hereby made a part of this agreement, and

WHEREAS, said improvement is located on US-34 and funds administered by the State, hereinafter known as "State Funds", have been made available for improvements on highways such as this, and

WHEREAS, the total cost of this project such as preliminary engineering, right-of-way, non-betterment utility rehabilitation, construction and construction engineering is estimated to be \$20,342,000, and

WHEREAS, the project is described as follows:

Reconstruction of "O" Street (US-34) between approximately 45<sup>th</sup> Street and 52<sup>nd</sup> Street. "O" Street will be widened to six through lanes plus turn lanes between 46<sup>th</sup> Street and 52<sup>nd</sup> Street in order to improve traffic flow. Improvements include traffic signal replacement at 48<sup>th</sup> & "O" and 52<sup>nd</sup> and "O" intersections, new storm sewers, new water mains, pavement markings, medians, retaining walls, driveway reconstruction/realignment, signing and lighting. The project also involves reconstructing 48<sup>th</sup> Street between "M" Street and "R" Street and will widen 48<sup>th</sup> Street (north of "O" Street) to three through lanes in each direction with turn lanes. A 12" water main will also be reconstructed along "O" Street between 33<sup>rd</sup> Street and 45<sup>th</sup> Street.

NOW THEREFORE, in consideration of these facts and the mutual promises of the Parties hereto, the City and State agree as follows:

SECTION 1. The City agrees:

- (a) That it has abided by, and will continue to abide by, the provisions of the Nebraska Fair Employment Practices Act as provided by Neb.Rev.Stat. §48-1101 through 48-1126, and

- (b) That it has not discriminated and will not discriminate on the basis of race, color, national origin, or sex in the award and performance of this agreement, and
- (c) That it has prepared specifications, taken bids, awarded the contract, and has provided and will continue to provide the necessary inspection to insure the performance is within specification requirements and maintain sufficient records to fully document actual costs of work performed. The project has and will be constructed in accordance with the plans and specifications prepared by the City and accepted by the State, and
- (d) That it has obtained all environmental clearances including necessary permits, and
- (e) That it has performed and/or will perform all right-of-way acquisition in accordance with the rules under Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act), and
- (f) That it has provided and will continue to provide a project manager to oversee the project. The project manager's services include, but are not limited to, arranging the preconstruction conference, keeping the State's Representative informed of scheduled construction milestones and project management as required and preparing contractor change orders and supplemental agreements, and
- (g) That it has provided and will continue to provide construction phase services for the project including materials sampling, testing, and inspection for quality assurance, and
- (h) That it has complied with and will continue to comply with all traffic safety regulations, including those prescribed in the latest approved edition of the Manual of Uniform Traffic Control Devices and to use extreme caution when working in the construction zone.

SECTION 2. The State agrees:

- (a) That the City may design and construct the Project, and
- (b) To provide a project representative to inspect that the work performed on the highway (US-34) is in compliance with the contract, plans, specifications, regulations, statutes, etc., in order that State funds may be expended on the project.

SECTION 3. The State agrees to reimburse the City for 1/3 (33.33 percent) of eligible project costs, up to a maximum amount of \$2,000,000. Eligible costs will be those project expenses that are approved and accepted by the State for preliminary engineering, right-of-way, nonbetterment utility rehabilitation, construction, and construction engineering, directly pertaining to the improvement of Highway US-34. Only work done on, or directly related to, the portion of the project on US-34 to the return point of any intersecting roadways or driveways will be eligible for consideration. The State funding for this project will be dispersed as a maximum of \$1,000,000 in fiscal year 2008 and \$1,000,000 in fiscal year 2009.

The City will submit progress billings for State approval. The City will be reimbursed for 33.33 percent of each billing until the maximum is reached in each fiscal year. There will be no retention amount held on this project.

Costs incurred by the State with respect to the entire project will be considered a part of the cost of the project, and will be applied in full towards the State share of project costs.

SECTION 4. Work in this agreement is subject to audit. If additional costs are allowed following the audit, the State will make payment to the City within 60 calendar days of such discovery. Under no circumstances shall the total amount paid to the City under this agreement total more than \$2,000,000. If the audit found an overpayment to the City, the City will be required to reimburse the State in full within 60 calendar days after the State notifies the City of such required reimbursement. The acceptance by the City of final payment will constitute and operate as a release to the State for all claims and liability to the City, its representatives and assigns, for any and all things done, furnished, or relating to the services rendered by the City under or in connection with this agreement or any part thereof.

SECTION 5. The City shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred and shall make such materials available for examination at its offices at all reasonable times during the contract period and for three years from the date of final payment under this agreement; such records to be available for inspection by the State, and copies thereof shall be furnished by the City if requested.

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

EXECUTED by the City this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

WITNESS:  
Joan E. Ross

CITY OF LINCOLN  
Coleen J. Seng

\_\_\_\_\_  
City Clerk

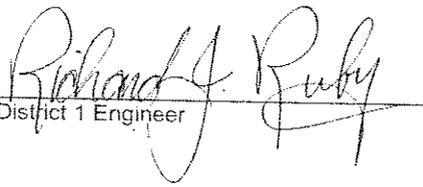
\_\_\_\_\_  
Mayor

EXECUTED by the State this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

STATE OF NEBRASKA  
DEPARTMENT OF ROADS  
James J. Knott, P.E.

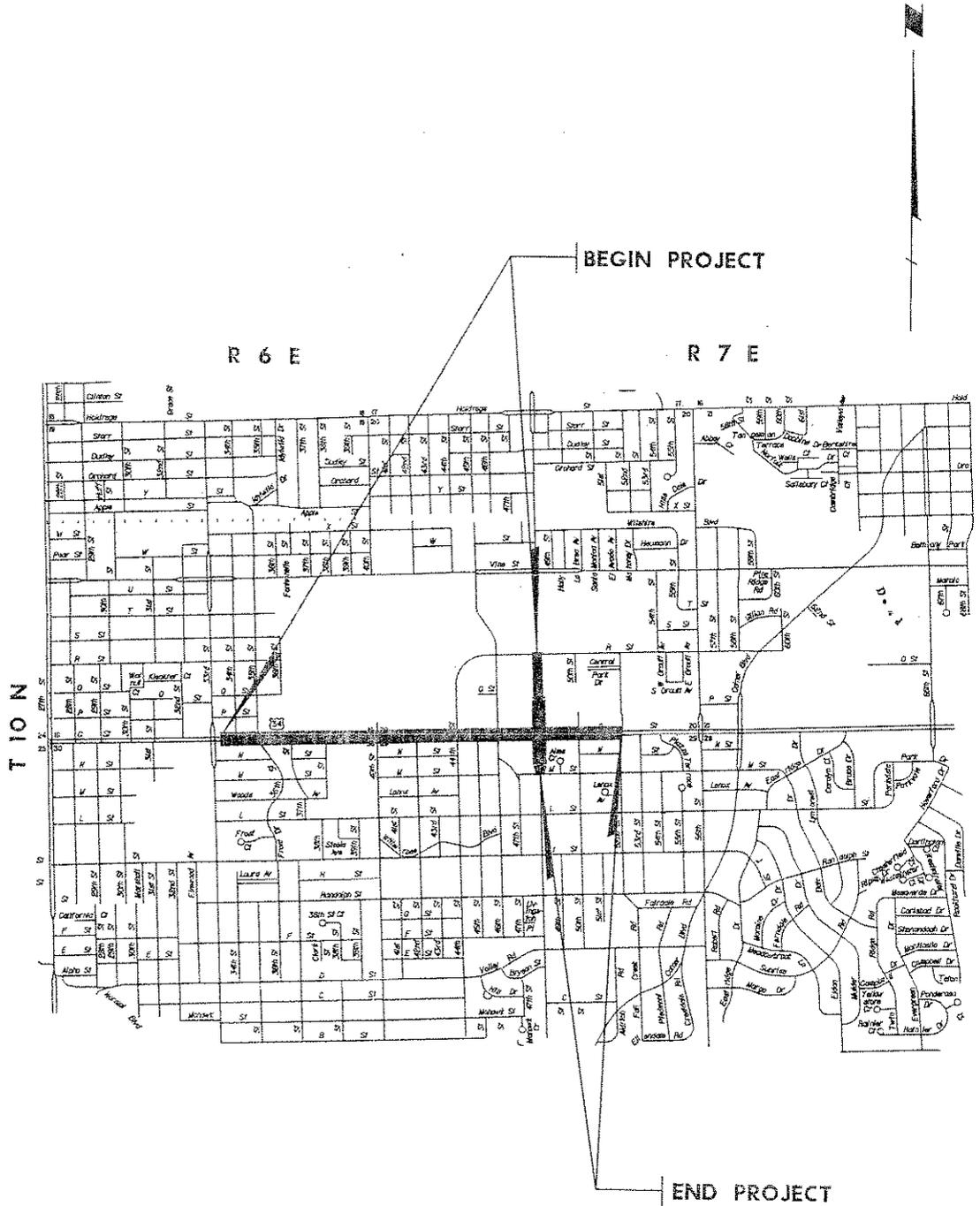
\_\_\_\_\_  
Roadway Design Engineer

RECOMMENDED:  
Richard J. Ruby, P.E.

  
\_\_\_\_\_  
District 1 Engineer

AGRS13-SH

LINCOLN  
LANCASTER COUNTY  
NEBRASKA



34-6(1033)  
C.N. 12836

EXHIBIT "A"