

AGREEMENT

CITY OF LINCOLN  
COUNTY OF LANCASTER  
STATE OF NEBRASKA, DEPARTMENT OF ROADS  
PROJECTS: DPU-3300(3), STATE CONTROL NO. 12578  
DPU-2-6(117), STATE CONTROL NO. 12578A,  
DPU-2-6(118), STATE CONTROL NO. 12578B,  
DPU-2-6(119), STATE CONTROL NO. 12578C,  
DPU-LIN-2(120), STATE CONTROL NO 12578D, &  
DPU-55(156), CITY PROJECT NO, 542702  
LINCOLN SOUTH BELTWAY & LINCOLN EAST BELTWAY

THIS AGREEMENT, entered into between the City of Lincoln, hereinafter referred to as the "City", Lancaster County, hereinafter referred to as the "County", and the State of Nebraska, Department of Roads, hereinafter referred to as the "State," the three parties hereinafter referred to collectively as "the Parties".

WITNESSETH:

WHEREAS, the Interlocal Cooperation Act, Neb. Rev. Stat. § 13-801 *et seq.*, 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. §39-1320*, the State of Nebraska, Department of Roads 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 state highway purpose by gift, agreement, purchase, condemnation, or otherwise; and

WHEREAS, the State has plans for the construction of Project DPU-2-6(118) Lincoln South Beltway 84<sup>th</sup> Street to 134<sup>th</sup> Street, Control No. 12578B, hereinafter referred to as "Lincoln South Beltway Project", as shown on Exhibit "A", attached hereto and hereby made a part of this agreement, and the City and the County have plans for the construction of a project, called the Lincoln East Beltway Project, City Project No. 542702 as shown on Exhibit "A", and

WHEREAS, Mr. and Mrs. Bhadbhade own real property, hereinafter referred to as the "Property", as described on Exhibit "B", and

WHEREAS, the Lincoln South Beltway Project and the Lincoln East Beltway Project will each include acquisition of fee title to a portion of the Property for public right-of-way as shown on Exhibit "A" and described in Exhibit "C", hereinafter referred to as "Right-of-Way Property", and

WHEREAS, Mr. and Mrs. Bhadbhade desire early acquisition of the Right-of-Way Property for the Lincoln South Beltway and the Lincoln East Beltway projects based on a financial hardship, and

WHEREAS, the City and the County desire to acquire that portion of the Right-of-Way Property needed for the Lincoln East Beltway, and

WHEREAS, it is the further desire of the City that the proposed be included in a project under the designation of DPU-3300(3), DPU-2-6(117), DPU-2-6(118), DPU-2-6(119), DPU-LIN-2(120), & DPU-55(156) City Project No., 542702, as evidenced by the Resolution of the City Council dated the \_\_\_\_ day of \_\_\_\_\_, 2010, attached hereto, identified as Exhibit "D," and hereby made a part of this agreement, and

WHEREAS, the County desires that the proposed be included in a project under the designation of DPU-3300(3), DPU-2-6(117), DPU-2-6(118), DPU-2-6(119), DPU-LIN-2(120), & DPU-55(156) City Project No., 542702, as evidenced by the Resolution of the County Board dated the \_\_\_\_ day of \_\_\_\_\_, 2010, attached hereto, identified as Exhibit "E", and hereby made a part of this agreement.

WHEREAS, the Parties agree that an early acquisition of the Right-of-Way Property is warranted in this case.

NOW THEREFORE, in consideration of these facts, the Parties agree as follows:

SECTION 1: Right-of-Way Property to Be Acquired.

- a) The Right-of-Way Property is Lot 30, Irregular Tracts located in the southwest quarter of Section 29, Township 9 North, Range 8 East of the sixth principal meridian, Lancaster County, Nebraska, and measures a total of 20.28 acres.
- b) Based on plans furnished by the State, the total right-of-way presently needed for construction of the Lincoln East Beltway Project from the Right-of-Way Property is 10.65 acres and the total right-of-way needed for construction of the Lincoln South Beltway from the Right-of-Way Property is 9.63 acres. The land needed for the Lincoln East Beltway Project from the Property is therefore 52.5 percent of all land needed for the Right-of-Way Property ( $10.65 \text{ acres} / 20.28 \text{ acres} \times 100 = 52.5\%$ ).
- c) The total cost to acquire Right-of-Way Property for the Lincoln South Beltway and the Lincoln East Beltway has previously been estimated to be \$486,720. The Lincoln East Beltway share of right-of-way cost will be an amount equal to 52.5 percent of the total right-of-way cost of the Right-of-Way Property. This percentage is based on the

Lincoln East Beltway's share of the total right-of-way taking from the Property. Based

Projects: DPU-3300(3), State Control No. 12578, - 2 -

DPU-2-6(117), State Control No. 12578A,  
DPU-2-6(118), State Control No. 12578B,  
DPU-2-6(119), State Control No. 12578C,  
DPU-LIN-2(120), State Control No. 12578D &  
DPU-55(156), City Project No. 542702  
Lincoln South Beltway & Lincoln East Beltway

on the preliminary cost estimate, the Lincoln East Beltway's share for the cost of the Right-of-Way Property will be \$255,528 ( $\$486,720 \times .525 = \$255,528$ ), however the Parties recognize this is a preliminary estimate only and that the final right-of-way costs are likely to be higher or lower.

SECTION 2. State Duties. The State agrees to:

- a) Provide the current design plan of the Right-of-Way Property needed for both the Lincoln South Beltway and the Lincoln East Beltway, as shown on Exhibit "A".
- b) Perform the appraisals and acquire the Right-of-Way Property needed for both the Lincoln South Beltway and the Lincoln East Beltway projects. The right-of-way needed for the Lincoln East Beltway will be acquired in the name of Lancaster County.
- c) Submit a bill to the City requesting reimbursement from the City for the County and City's share (52.5%) of the total cost expense to acquire the 10.65 acres of the Right-of-Way Property necessary to build the Lincoln East Beltway Project.
- d) Acquire the Right-of-Way Property in accordance with the Uniform Act and Federal Aid rules. Eminent Domain will not be used if agreement is not reached with Mr. and Mrs. Bhadbhade.

SECTION 3. City Duties. The City agrees to reimburse the State for the City and County's share of all costs incurred by the State, for acquiring the 10.65 acres of the Right-of-Way Property needed for the Lincoln East Beltway Project. When the final right-of-way contracts have been signed, the State will bill the City for all known State incurred expenses to acquire the 10.65 acres of Right-of-Way Property needed for the Lincoln East Beltway Project. The City agrees to pay the State the City and County's share within sixty days after receipt of a billing from the State.

SECTION 4. County Duties. The County acknowledges and agrees that the City and the County have previously entered into an agreement between themselves for a 50/ 50 cost share for the 10.65 acres of Right-of-Way Property needed for the Lincoln East Beltway Project and as such the City will bill and the County will pay to the City 50 percent of the total costs expense that the State is billing the City for the 10.65 acres of Right-of-Way Property needed for the Lincoln East Beltway Project. The County agrees to pay the City the County's 50 percent share for the 10.65 acres of Right-of-Way Property needed for the East Beltway Project within sixty days after receipt of a billing from the City.

SECTION 5. Authority. This agreement is entered into pursuant to the Interlocal Cooperation Act, Neb. Rev. Stat. §§13-801 to 13-827. No separate local entity will be created as a result of this agreement.

SECTION 6. Independent Contractor. It is the express intent of the parties that this Agreement shall not create an employer-employee relationship. Employees of the City and County shall not be deemed to be employees of the State and employees of the State shall not be deemed to be employees of the City and County. The City, County and State shall be responsible to their respective employees for all salaries and benefits. Neither the City's employees nor the County's employees nor the State's employees shall be entitled to any salary or wages from the other parties or to any benefits made to other parties employees, including but not limited to, overtime, vacation, retirement benefits, workers compensation, sick leave or injury leave. The City, County and State shall be responsible for maintaining Worker's Compensation Insurance and Unemployment Insurance for their own employees, and for payment of all Federal, State, local and any other payroll taxes with respect to their employees' compensation.

SECTION 7. Assignment. Neither the City nor, the County, nor the State shall assign its duties and responsibilities under this Agreement without the express written permission of the other parties to this agreement.

SECTION 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), to pay 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.

SECTION 9. 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.

SECTION 10. Equal Employment Opportunity. Each party agrees that in providing services pursuant to this Agreement, it shall not discriminate against any employee, applicant for employment, or any other person on the basis of race, color, religion, sex, disability, national origin, age, marital status, or any other basis prohibited by applicable state or federal law.

SECTION 11. FEDERAL IMMIGRATION VERIFICATION. To the extent required by law and in accordance with Neb. Rev. Stat. §§ 4-108 through 4-114, all parties agree to register with and use a federal immigration verification system, to determine the work eligibility status of new employees physically performing services within the state of Nebraska under this contract. 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 USC 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. The Parties shall not discriminate against any employee, or applicant for employment, to be employed in the performance of this section, in violation of State or Federal law. The Parties shall require any subcontractors to comply with the provisions of this section.

SECTION 12. AUDIT AND REVIEW. The State shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to this Agreement, as allowed by law.

SECTION 13. Entire Agreement. 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.

IN WITNESS WHEREOF, the City, County and State 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 \_\_\_\_\_, 2010

ATTEST:

CITY OF LINCOLN

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Mayor

EXECUTED by the County this \_\_\_\_ day of \_\_\_\_\_, 2010.

ATTEST:

COUNTY OF LANCASTER

\_\_\_\_\_  
Clerk

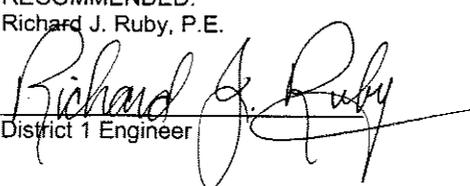
\_\_\_\_\_  
Chairperson, County Board

EXECUTED by the State this \_\_\_\_ day of \_\_\_\_\_, 2010.

STATE OF NEBRASKA  
DEPARTMENT OF ROADS  
James J. Knott

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

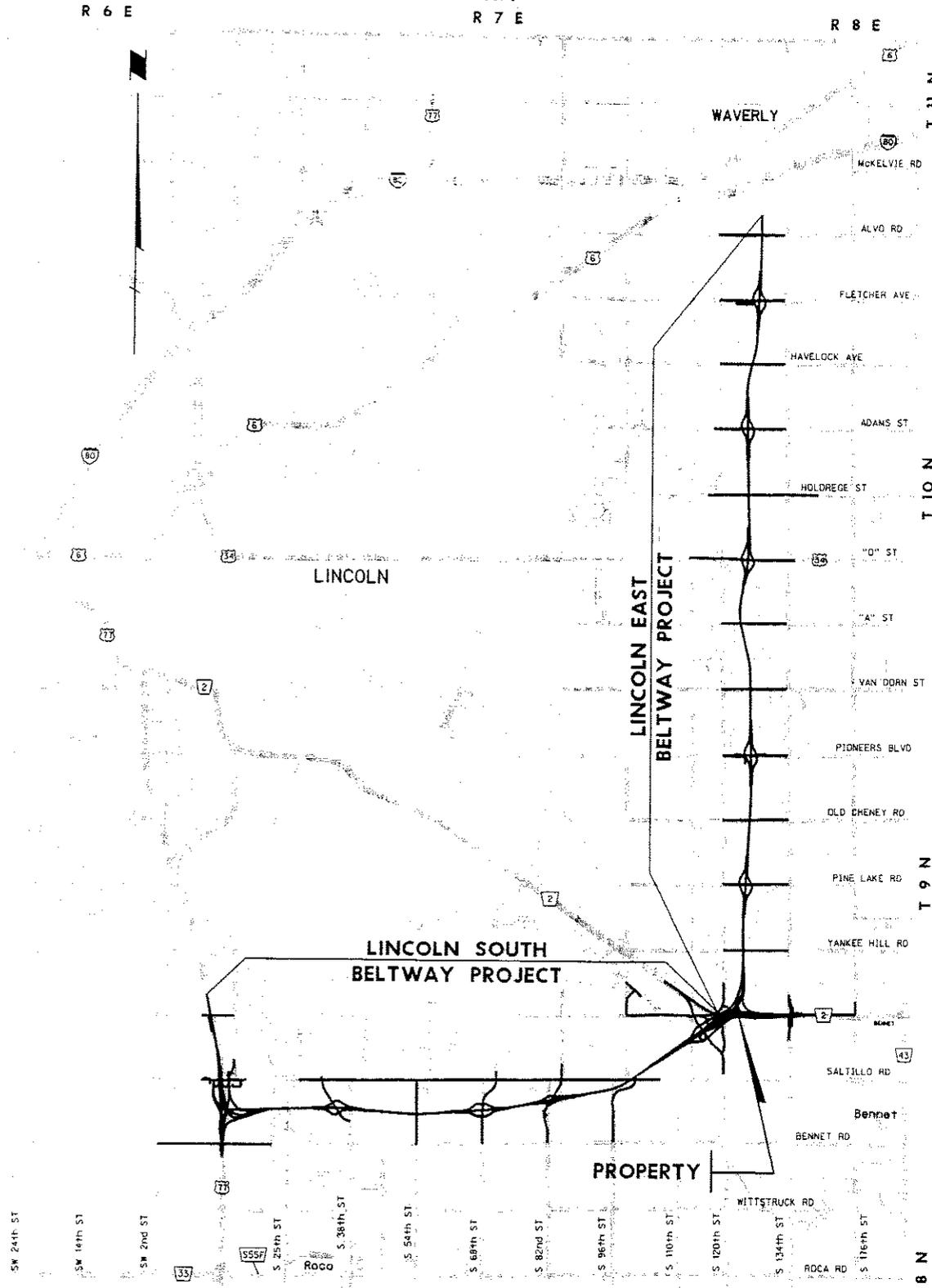
RECOMMENDED:  
Richard J. Ruby, P.E.

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

AGRC6-ZZ

# LINCOLN

LANCASTER COUNTY  
NEBRASKA

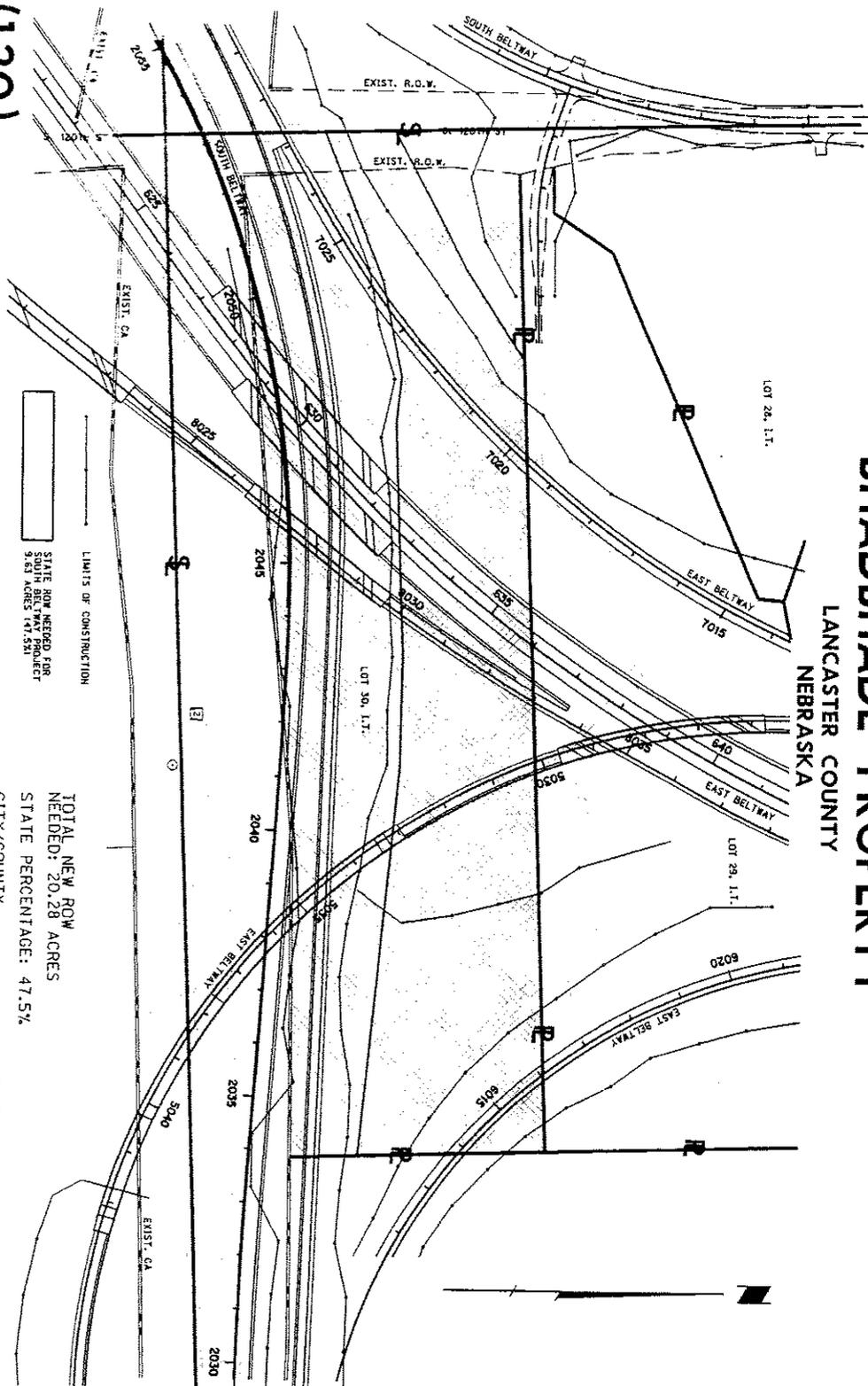


DPU-3300(3), STATE CN. 12578  
DPU-2-6(117), STATE CN. 12578A  
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DPU-2-6(119), STATE CN. 12578C  
DPU-LIN-2(120), STATE CN. 12578D  
DPU-55(156), CITY PROJECT NO. 542702

## EXHIBIT "A"

# BHADBHADDE PROPERTY

LANCASTER COUNTY  
NEBRASKA



-  LIMITS OF CONSTRUCTION
-  STATE ROW NEEDED FOR SOUTH BELTWAY PROJECT  
9.83 ACRES (47.5%)
-  CITY/COUNTY ROW NEEDED FOR EAST BELTWAY PROJECT  
10.55 ACRES (52.5%)

TOTAL NEW ROW NEEDED: 20.28 ACRES  
STATE PERCENTAGE: 47.5%  
CITY/COUNTY PERCENTAGE: 52.5%

2-6(120)  
C.N. 12578D

EXHIBIT "A"

SHEET 2 OF 2

## BHADBHADE

PROJECT 2-6 (120) TRACT 76

ROW1

A TRACT OF LAND LOCATED IN A PART OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 8 EAST OF THE SIXTH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 29; THENCE IN A NORTHERLY DIRECTION, ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 29, ON AN ASSUMED BEARING OF NORTH 00 DEGREES 25 MINUTES 12 SECONDS EAST FOR A DISTANCE OF 141.45 FEET, THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST FOR A DISTANCE OF 78.21 FEET TO THE POINT OF BEGINNING, THENCE NORTH 00 DEGREES 44 MINUTES 51 SECONDS WEST, ALONG THE EASTERLY RIGHT OF WAY LINE OF HIGHWAY NO.2 FOR A DISTANCE OF 391.26 FEET, THENCE NORTH 07 DEGREES 02 MINUTES 40 SECONDS EAST, ALONG THE EASTERLY RIGHT OF WAY LINE OF HIGHWAY NO. 2, FOR A DISTANCE OF 127.66 FEET, THENCE SOUTH 89 DEGREES 52 MINUTES 29 SECONDS EAST FOR A DISTANCE OF 1825.91 FEET, THENCE SOUTH 00 DEGREES 25 MINUTES 12 SECONDS WEST FOR A DISTANCE OF 476.59 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF HIGHWAY NO.2, THENCE NORTH 88 DEGREES 06 MINUTS 33 SECONDS WEST, ALONG THE NORTHERLY RIGHT OF WAY LINE OF HIGHWAY NO. 2, FOR A DISTANCE OF 608.79 FEET, THENCE SOUTH 87 DEGREES 18 MINUTES 50 SECONDS WEST, ALONG THE NORTHERLY RIGHT OF WAY LINE OF HIGHWAY NO. 2, FOR A DISTANCE OF 1225.85 FEET TO THE POINT OF BEGINNING.

# EXHIBIT "B"

Part 1 of State Required ROW

A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 8 EAST OF THE SIXTH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE NORTHERLY A DISTANCE OF 659.58 FEET ALONG THE WEST LINE OF SAID QUARTER SECTION; THENCE EASTERLY DEFLECTING 089 DEGREES, 42 MINUTES, 19 SECONDS RIGHT, A DISTANCE OF 84.96 FEET TO A POINT ON THE EASTERLY EXISTING 120TH STREET RIGHT OF WAY LINE TO A POINT ON THE NORTH LINE OF THE PROPERTY OWNED BY THE GRANTOR(S) TO THE POINT OF BEGINNING; THENCE EASTERLY DEFLECTING 000 DEGREES, 00 MINUTES, 00 SECONDS A DISTANCE OF 346.02 FEET ALONG THE PROPERTY LINE OF THE GRANTOR(S); THENCE SOUTHWESTERLY DEFLECTING 148 DEGREES, 47 MINUTES, 17 SECONDS RIGHT, A DISTANCE OF 201.19 FEET; THENCE SOUTHWESTERLY DEFLECTING 005 DEGREES, 18 MINUTES, 31 SECONDS RIGHT, A DISTANCE OF 209.44 FEET TO A POINT ON THE EASTERLY EXISTING 120TH STREET RIGHT OF WAY LINE; THENCE NORTHERLY DEFLECTING 115 DEGREES, 01 MINUTES, 59 SECONDS RIGHT, A DISTANCE OF 69.08 FEET ALONG SAID RIGHT OF WAY LINE; THENCE NORTHERLY DEFLECTING 007 DEGREES, 50 MINUTES, 40 SECONDS RIGHT, A DISTANCE OF 127.63 FEET ALONG SAID RIGHT OF WAY LINE TO THE POINT OF BEGINNING CONTAINING 0.84 ACRES, MORE OR LESS.

Part 2 of State Required ROW

A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 8 EAST OF THE SIXTH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE NORTHERLY A DISTANCE OF 297.71 FEET ALONG THE WEST LINE OF SAID QUARTER SECTION; THENCE NORTHEASTERLY DEFLECTING 069 DEGREES, 37 MINUTES, 53 SECONDS RIGHT, A DISTANCE OF 79.30 FEET TO A POINT ON THE EASTERLY EXISTING 120TH STREET RIGHT OF WAY LINE TO THE POINT OF BEGINNING; THENCE NORTHEASTERLY DEFLECTING 000 DEGREES, 00 MINUTES, 00 SECONDS A DISTANCE OF 217.72 FEET; THENCE EASTERLY DEFLECTING 010 DEGREES, 37 MINUTES, 18 SECONDS RIGHT, A DISTANCE OF 182.51 FEET; THENCE EASTERLY DEFLECTING 017 DEGREES, 40 MINUTES, 57 SECONDS RIGHT, A DISTANCE OF 84.68 FEET; THENCE EASTERLY DEFLECTING 008 DEGREES, 15 MINUTES, 57 SECONDS LEFT, A DISTANCE OF 436.19 FEET; THENCE EASTERLY DEFLECTING 003 DEGREES, 11 MINUTES, 47 SECONDS RIGHT, A DISTANCE OF 206.82 FEET; THENCE EASTERLY DEFLECTING 004 DEGREES, 29 MINUTES, 01 SECONDS RIGHT, A DISTANCE OF 731.92 FEET TO A POINT ON THE EAST LINE OF THE PROPERTY OWNED BY THE GRANTOR(S); THENCE SOUTHERLY DEFLECTING 082 DEGREES, 39 MINUTES, 02 SECONDS RIGHT, A DISTANCE OF 126.05 FEET ALONG SAID LINE TO A POINT ON THE NORTHERLY EXISTING HIGHWAY 2 RIGHT OF WAY LINE; THENCE WESTERLY DEFLECTING 091 DEGREES, 28 MINUTES, 24 SECONDS RIGHT, A DISTANCE OF 608.92 FEET ALONG SAID RIGHT OF WAY LINE; THENCE WESTERLY DEFLECTING 004 DEGREES, 34 MINUTES, 37 SECONDS LEFT, A DISTANCE OF 1225.85 FEET ALONG SAID RIGHT OF WAY LINE TO A POINT ON THE EASTERLY EXISTING 120TH STREET RIGHT OF WAY LINE; THENCE NORTHERLY DEFLECTING 091 DEGREES, 56 MINUTES, 19 SECONDS RIGHT, A DISTANCE OF 183.27 FEET TO THE POINT OF BEGINNING CONTAINING 8.79 ACRES, MORE OR LESS.

**EXHIBIT "C"**

City/County Required ROW

A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 8 EAST OF THE SIXTH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE NORTHERLY A DISTANCE OF 429.00 FEET ALONG THE WEST LINE OF SAID QUARTER SECTION; THENCE NORTHEASTERLY DEFLECTING 069 DEGREES, 48 MINUTES, 07 SECONDS RIGHT, A DISTANCE OF 79.71 FEET TO A POINT ON THE EASTERLY EXISTING 120TH STREET RIGHT OF WAY LINE TO THE POINT OF BEGINNING; THENCE NORTHEASTERLY DEFLECTING 000 DEGREES, 01 MINUTES, 00 SECONDS A DISTANCE OF 209.44 FEET; THENCE NORTHEASTERLY DEFLECTING 005 DEGREES, 18 MINUTES, 31 SECONDS LEFT, A DISTANCE OF 201.19 FEET TO A POINT ON THE NORTH LINE OF THE PROPERTY OWNED BY THE GRANTOR(S); THENCE EASTERLY DEFLECTING 031 DEGREES, 12 MINUTES, 43 SECONDS RIGHT, A DISTANCE OF 1479.89 FEET ALONG SAID LINE TO A POINT ON THE EAST LINE OF THE PROPERTY OWNED BY THE GRANTOR(S); THENCE SOUTHERLY DEFLECTING 090 DEGREES, 17 MINUTES, 41 SECONDS RIGHT, A DISTANCE OF 350.56 FEET ALONG THE PROPERTY LINE OF THE GRANTOR(S); THENCE WESTERLY DEFLECTING 097 DEGREES, 20 MINUTES, 58 SECONDS RIGHT, A DISTANCE OF 731.92 FEET; THENCE WESTERLY DEFLECTING 004 DEGREES, 29 MINUTES, 01 SECONDS LEFT, A DISTANCE OF 206.82 FEET; THENCE WESTERLY DEFLECTING 003 DEGREES, 11 MINUTES, 47 SECONDS LEFT, A DISTANCE OF 436.19 FEET; THENCE WESTERLY DEFLECTING 008 DEGREES, 15 MINUTES, 57 SECONDS RIGHT, A DISTANCE OF 84.68 FEET; THENCE WESTERLY DEFLECTING 017 DEGREES, 40 MINUTES, 57 SECONDS LEFT, A DISTANCE OF 182.51 FEET; THENCE SOUTHWESTERLY DEFLECTING 010 DEGREES, 37 MINUTES, 18 SECONDS LEFT, A DISTANCE OF 217.72 FEET TO A POINT ON THE EASTERLY EXISTING 120TH STREET RIGHT OF WAY LINE; THENCE NORTHERLY DEFLECTING 109 DEGREES, 12 MINUTES, 13 SECONDS RIGHT, A DISTANCE OF 138.91 FEET ALONG SAID RIGHT OF WAY LINE TO THE POINT OF BEGINNING CONTAINING 10.65 ACRES, MORE OR LESS.

**EXHIBIT "C"**

SHEET 2 OF 2