

## **EAST LEXINGTON VIADUCT COOPERATIVE AGREEMENT**

This Agreement entered into on \_\_\_\_\_, 2010, by and between the City of Lexington, Nebraska, (hereinafter “CITY”), the COUNTY OF DAWSON, State of Nebraska, (hereinafter “COUNTY”), and the Dawson County Railroad Transportation Safety District, Dawson County, Nebraska, (hereinafter “RTSD”).

WHEREAS, CITY is a Nebraska Municipal corporation, COUNTY is a body politic and corporate established under Chapter 23 of the Nebraska Revised Statutes, and RTSD is a special district formed under Section 74-1302 of the Nebraska Revised Statutes;

WHEREAS, CITY and COUNTY are responsible for operation and maintenance of streets and highways which are interconnected in the Lexington, Nebraska area, and RTSD is responsible for railroad transportation safety in such area; and

WHEREAS, the at-grade crossing of Road 435 and the Union Pacific Railroad serves property and businesses within the municipal limits of CITY, as well as property and businesses within the jurisdiction of COUNTY, and that joint planning to facilitate removal of the conflict between railroad transportation and highway transportation and elimination of at-grade railroad crossings will be conducive to the public health, safety, and welfare, and the future development of the area in a responsible and orderly manner; and

WHEREAS, CITY and COUNTY have by a previous Cooperative Agreement dated June 12, 2007, provided for the funding and completion of a Rural Viaduct Location Study, which is now completed.

THEREFORE, in consideration of the mutual covenants of the parties, it is agreed as follows:

1. Cooperative Agreement: Pursuant to Sections 13-801 - 13-827 of the Revised Statutes of Nebraska, "CITY", "COUNTY", AND "RTSD" hereby enter into a cooperative agreement through which the parties shall jointly and cooperatively exercise certain powers, privileges, or authority granted to the parties for the study, design, funding, construction, maintenance, and traffic regulation of transportation facilities within a one mile radius of the at-grade intersection of County Road 435 and the Union Pacific Railroad. The governing body of each of the parties hereto shall have approved this Agreement by resolution, prior to its execution and delivery.

2. Purpose: The purpose of the Cooperative Agreement shall be to make efficient use of the powers of the parties hereto by enabling them to cooperate with each other on a basis of mutual advantage and thereby provide services and facilities in a manner in pursuant to forms of governmental organization that will accord best with economic and other needs of the public as served by CITY, COUNTY, and RTSD, and more specifically to facilitate planning and construction of an East Lexington Viaduct.

3. Organization: The Lexington City Manager is hereby designated as the Administrator of this Agreement with the responsibility for carrying out the terms of this Agreement. The Administrator shall report regularly to the governing bodies of CITY, COUNTY, and RTSD, to keep all parties advised of joint and cooperative activity. This Agreement does not create any separate legal or administrative entity.

4. Duration: The duration of this Agreement shall be until the completion of all obligations hereunder, in any event, not to exceed twenty years from the date of the execution of this Agreement.

5. Manner of Acquiring and Holding Property: Any real or personal property owned by any of the parties to this Agreement shall remain the separate property of the parties. Any property acquired for the purposes of this Agreement shall be allocated subject to Section 6 of this agreement.

6. East Lexington Viaduct Project: The parties agree that pursuant to the findings of the Rural Viaduct Location Study, the parties shall take the necessary steps to secure local, state, federal, and railroad funding for preliminary design, environmental assessments, final design/specification, construction, and construction management of a viaduct over the Highway 30 and Union Pacific Railroad rights-of-way within a one mile radius of the current at-grade crossing at County Road 435, (PROJECT) subject to the following:

- a) CITY shall be the responsible entity for negotiating and signing program/funding agreements with the State of Nebraska Department of Roads and Union Pacific Railroad through the course of planning and construction of PROJECT;
- b) COUNTY agrees that the at-grade crossings at Union Pacific DOT 816901E at County Road 435 and at Union Pacific DOT 816902L at County Road 436 shall be closed as a condition of PROJECT funding, such closures to take place at the completion of construction of PROJECT;
- c) CITY will provide a Responsible Charge person for PROJECT;
- d) CITY will provide and pay the cost of all preliminary design and environmental assessment for the PROJECT, and will provide oversight of the same;

- e) RTSD will reimburse CITY the actual costs associated with Section 6(d).
- f) CITY will provide and pay any matching costs which are part of the funding of PROJECT construction and construction management;
- g) RTSD will reimburse CITY the actual costs associated with Section 6(f).
- h) All PROJECT bridges and roadways shall become a part of COUNTY road system;
- i) CITY and COUNTY shall be responsible for ongoing maintenance of roadways and bridges with PROJECT, per separate cooperative agreement.
- j) COUNTY shall be responsible for traffic control regulations, signing and enforcement within the PROJECT;

7. Amendment of Agreement: This Agreement may be amended upon approving resolutions adopted by all governing bodies of CITY, COUNTY, and RTSD.

Executed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 2010

CITY OF LEXINGTON, NEBRASKA

By: \_\_\_\_\_

COUNTY OF DAWSON

By: \_\_\_\_\_

DAWSON COUNTY RAILROAD SAFETY  
TRANSPORTATION DISTRICT

By: \_\_\_\_\_