



City of Grand Island

Tuesday, February 26, 2019

Council Session

Item G-17

#2019-78 - Approving Agreement with Nebraska Department of Transportation (NDOT) for Improvements to US Highway 30 Bridges in Grand Island; Project No. NH-30-4(162); Control No. 42776

Staff Contact: John Collins, P.E. - Public Works Director

Council Agenda Memo

From: Keith Kurz PE, Assistant Public Works Director

Meeting: February 26, 2019

Subject: Approving Agreement with Nebraska Department of Transportation (NDOT) for Improvements to US Highway 30 Bridges in Grand Island; Project No. NH-30-4(162); Control No. 42776

Presenter(s): John Collins PE, Public Works Director

Background

The Nebraska Department of Transportation (NDOT) is preparing plans for improvements to US Highway 30 bridges at the junction of US Highway 30 and US Highway 281/North 2 and from the intersection of US Highway 30 and Old Lincoln Highway east to the intersection of US Highway 30 and Grant Street, with the City cost sharing on the portion within City limits.

All agreements must be approved by the City Council.

Discussion

The improvements to US Highway 30 consist of the following:

- Repairing and milling the existing roadway and resurfacing with asphalt
- Replacing approaches, remodeling abutments and wing walls, replacing or constructing median barrier, and sidewalk overlay, as well as other necessary repairs

The total cost of work within City limits is currently estimated to be \$1,842,000.00 with the City's share at \$213,200.00. The actual cost is likely to be greater than the preliminary estimates as details of design are further developed. The agreement is attached for further review.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve

2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve a resolution authorizing the Mayor to sign the agreement.

Sample Motion

Move to approve authorization for the Mayor to sign the agreement.

MUNICIPALITY FINANCIAL AGREEMENT STATE PROJECTS

STATE OF NEBRASKA, DEPARTMENT OF TRANSPORTATION
CITY OF GRAND ISLAND
PROJECT NO. NH-30-4(162)
CONTROL NO. 42776
IN GRAND ISLAND BRIDGES

THIS AGREEMENT is between City of Grand Island, a municipal corporation of the State of Nebraska ("Municipality"), and State of Nebraska, Department of Transportation ("State"), collectively referred to as the "Parties".

WITNESSETH:

WHEREAS, State intends to improve a portion of State Highway US-30 at the location as shown on Exhibit "A"; and

WHEREAS, State intends that the improvement be developed and constructed under the designation of Project No. NH-30-4(162); and

WHEREAS, the improvement is located within the designated urban area of Grand Island, Nebraska, and funds administered by State will be made available for the construction of this project; and

WHEREAS, this Agreement is related to the portion of the project on State Highway US-30 located within Municipality's corporate limits; and

WHEREAS, the improvements on this project will include repair and milling the existing concrete roadway, resurfacing with asphalt and improvements to three structures, and

WHEREAS, pedestrian access on two structures will be temporarily closed during construction for approximately 40 working days and a pedestrian detour will be provided, and

WHEREAS, night time closures will be necessary while overlaying the bridge decks, and

WHEREAS, Parties intend that this Agreement describe certain roles and responsibilities applicable to this project; and

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WHEREAS, concerning Municipality's share of the project costs, Federal Regulations provide that Municipality shall not profit or otherwise gain from special assessments that exceed Municipality's share of project costs; and

WHEREAS, City Council has authorized the Mayor to sign this Agreement, as evidenced by the Resolution of City Council, as shown on Exhibit "D"; and

WHEREAS, the Parties understand that this Agreement will be posted to a publically accessible database of State agreements pursuant to the requirements Neb. Rev. Stat. § 84-602.02; and

WHEREAS, the project work within the corporate limits is described below in Section 2.

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

SECTION 1. DURATION OF THE AGREEMENT

- 1.1 *Effective Date*** - This Agreement is effective immediately on the date it is fully executed by the Parties. The Mayor is authorized by the City Council to execute this Agreement, as evidenced by the Resolution of City Council, attached as Exhibit "D" and incorporated herein by this reference
- 1.2 *Renewal, Extension or Amendment*** - This Agreement may be renewed, extended or amended by mutual agreement or as otherwise provided herein.
- 1.3 *Identifying Date*** - For convenience, this Agreement's identifying date will be the date the State signed the Agreement.
- 1.4 *Duration*** - This Agreement will remain in full force and effect for future responsibilities of Municipality described herein, such as for parking, encroachments and maintenance, unless such responsibilities have been rescinded by State. State will treat the remainder of this Agreement as inactive upon the happening of either (1) the waiver of an audit review, or (2) the final completion of an audit review by the State or its authorized representative and the resolution of all issues identified in the audit report.
- 1.5 *Termination*** - Further, State reserves the right to terminate the Agreement as provided herein.

SECTION 2. DESCRIPTION OF THE WORK WITHIN THE CORPORATE LIMITS

- 2.1 The Parties agree State will develop plans and specifications and cause the project to be constructed at the location shown on Exhibit "A", attached and incorporated herein by this reference, and in accordance with plans and specifications and the provisions of this Agreement. Generally, the improvements to be constructed within the corporate limits include the following:
- 2.1.1 Repairing and milling the existing roadway and resurfacing with asphalt at: the junction of US-30 and US-281/N-2 at R.P. 312+93; and from the intersection of US-30 and Old Lincoln Highway at R.P. 313+66 east to the intersection of US-30 and Grant Street at R.P. 314+10.
- 2.1.2 Improvements to Structure Nos. S030 31293, S030 31379, and S030 31389 at the locations shown on Exhibit "A". Improvements include replacing approaches, remodeling abutments and wing walls, replacing or constructing median barrier, and, sidewalk overlay, other repairs.
- 2.2 During the work on structures S030 31379 and S030 31389, pedestrian access will be temporarily closed for approximately 40 working days. A pedestrian detour will be provided along North Clay Street, West 3rd Street, North Blaine Street, West Old Lincoln Highway, and West Old Potash Hwy., as shown on Exhibit "B", attached and incorporated herein by this reference. The detour route will require new sidewalk, driveway replacement, utility relocation, and curb ramps at several locations.
- 2.3 During work on the structures, night time closures will be necessary and is anticipated to be for 4-6 nights. A roadway detour will be provided along North Broadwell Ave., West 3rd Street., North Blaine Street, West Old Lincoln Highway, and West Old Potash Hwy. as shown on Exhibit "C", attached and incorporated herein by this reference.

SECTION 3. STATE RESPONSIBILITIES

State shall:

- 3.1 Prepare at its sole discretion, plans and specifications for State's proposed subject project. State will deliver these plans and specifications to Municipality prior to construction. State has sole authority to modify the plans or specifications as necessary to complete the proposed improvements.

- 3.2 Acquire all property rights for Right of Way (ROW) for the project that will not be acquired by Municipality.
- 3.3 Advertise and conduct a letting and receive bids on the proposed improvement. State has the sole authority to determine, and award the contract to, the lowest responsible bidder. State shall sign the construction contract.
- 3.4 Supervise and cause completion of the construction of the improvement as shown in the construction contract documents and modifications thereto. State has sole authority to execute any contractor change orders-supplemental agreements required for construction of the project within Municipality's corporate limit. State will notify the Municipality of any contractor change orders-supplemental agreements that increase Municipality's cost.
- 3.5 Reimburse, when applicable, Municipality for the nonbetterment relocation of municipally owned utility facilities as provided in SECTION 10. UTILITY RELOCATION WORK.
- 3.7 State has statutory authority under Neb. Rev. Stat 39-1346 to designate the municipal street shown on Exhibit "C" as a detour for the State Highway System.
- 3.8 The State Project Manager and Municipality's Street Superintendent will inspect and document the conditions of the municipal street to be designated as a state highway detour prior to its use as a detour route. In conformance with Neb. Rev. Stat. § 39-1347, the State agrees to maintain the municipal street during its use as a detour and to return said municipal street to the Municipality at the conclusion of its use as a detour in as good condition as existed prior to when it was designated as a state highway detour, except for ordinary wear and tear.
- 3.9 State will notify the Municipality in writing when the State assumes jurisdictional responsibility for the municipal street and to notify the Municipality in writing when the municipal street is returned to the jurisdictional responsibility of the Municipality.
- 3.10 State will bear the cost of changes required to municipal street to prepare it for use as a detour for state highway traffic and that these changes will be made without cost to the Municipality.
- 3.11 State will bear the cost of the operation and maintenance of the municipal street as a detour for highway traffic while the municipal street is designated as a detour for state highway traffic.

SECTION 4. MUNICIPALITY RESPONSIBILITIES.

Municipality shall, with respect to the portion of the project within its corporate limits, and at no cost to State:

- 4.1 Regulate, to the extent Municipality has authority to do so, all future development and use of property adjoining the public ROW as described in SECTION 6. MUNICIPALITY'S DUTIES AND RIGHTS REGARDING RIGHT OF WAY.
- 4.2 Require that all future entrances from private property to the highway ROW within the limits of this project receive approval of the Director-State Engineer, Department of Transportation or authorized representative, pursuant to Neb. Rev. Stat. § 39-1332 prior to Municipality approval or Municipality issuing a building permit for the site.
- 4.3 Cause the removal of all advertising signs from the existing highway ROW. Municipality also agrees to cause the removal from the existing highway ROW of other privately owned encroachments, facilities, objects, structures, or things, and to keep the existing and new highway ROW free of future encroachments, facilities, objects, structures, or things, except those authorized by permit from Municipality and approved by State and Federal Highway Administration.
- 4.4 Comply with, for project work performed by Municipality, the provisions of the Nebraska Fair Employment Practices Act, Neb. Rev. Stat. §§ 48-1101 - 48-1126, and all regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49 CFR, Parts 21 and 27, as set forth in the SECTION 17. TITLE VI NONDISCRIMINATION CLAUSES.
- 4.5 Perform the present and future duties assigned to Municipality under this Agreement at its sole cost except when costs are specifically reimbursable under this Agreement.
- 4.6 Obtain approval of State, with Federal Highway Administration concurrence, prior to making or causing changes in the roadway geometrics, either during project construction or after the project is completed. Changes that require prior approval include but are not limited to: access control, driveways, median breaks, parking restrictions or any other traffic control items.
- 4.7 Amend ordinances, as necessary, to establish pavement or ground elevations shown in the plans when proposed construction involves a change in elevations established by a pre-existing ordinance.

- 4.8 If the Municipality procures consultant services for preliminary engineering and construction engineering for nonbetterment rehabilitation of municipally owned and operated utilities by the Municipality, the Municipality agrees to comply with Chapter 4 of the "Nebraska Department of Transportation LPA Guidelines Manual for Federal-Aid Projects".

SECTION 5. CONSTRUCTION SCHEDULE

State will determine the construction schedule for this project.

SECTION 6. MUNICIPALITY'S DUTIES AND RIGHTS REGARDING RIGHT OF WAY

- 6.1 Encroachments: Municipality and State will cooperate to cause the removal of encroachments from public ROW, or correction or alteration in the public ROW, as necessary for the construction of the aforesaid project.
- 6.2 Adjacent Development: Municipality understands that State highway ROW shall be held inviolate for State highway purposes pursuant to Neb. Rev. Stat. § 39-1359, and no physical or functional encroachments, structures, or uses shall be permitted within such right-of-way limits, except by written consent of State. Municipality will regulate, to the fullest extent allowed by law, the private or non-transportation related public development of property adjoining the public ROW, to prevent future encroachment or uses of the public ROW, except by written consent of State. Municipality shall not issue a building permit for an adjacent property which requires work on the state highway right of way unless State has given advanced written approval of the proposed plans.
- 6.3 Special Assessments: Municipality shall not use special assessments to defray Municipality's costs under this Agreement unless Municipality has received, in advance, written consent from State's Right of Way Division Manager.

SECTION 7. ROADWAY LIGHTING SYSTEM

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SECTION 8. TRAFFIC SIGNAL EQUIPMENT

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SECTION 9. PERMISSION TO USE STATE RIGHT OF WAY

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SECTION 10. UTILITY RELOCATION WORK

10.1 Overview

The Parties understand that existing Municipality and non-Municipality owned utility facilities may conflict with State's project. State will enter into a separate agreement(s) to establish the roles, duties, and financial responsibilities for the necessary relocation of utility facilities.

10.2 State Highway Right-of-Way

Municipality shall obtain a permit from the State for utility relocation work that occupies State Highway ROW.

SECTION 11. MUNICIPALITY'S FINANCIAL RESPONSIBILITIES

11.1 Municipality's cost of this project will be the sum of the following:

- 10% of the construction for the roadway improvements as described herein
- 50% of construction costs for the pedestrian detour
- Construction Engineering costs as calculated in section 11.2.2

State's preliminary estimate of Municipality's cost is \$213,200, but Municipality's actual cost is likely to be greater than the preliminary estimate as the details of design are further developed.

11.2 Calculation of Municipality costs: A breakdown of Municipality's project cost is as follows:

11.2.1 Municipality's Construction Cost. The actual cost of construction work

Municipality is participating is calculated by multiplying unit prices by final quantities for the work. Unit prices and final quantities may be different than bid prices and estimated quantities as a result of field measurement and the contractor change order-supplemental agreement process.

- The total construction cost for the roadway improvements is estimated to be \$1,540,000 with the Municipality's 10% share being \$154,000.
- The total construction cost for the pedestrian detour is estimated to be \$98,000 with the Municipality's 50% share being \$49,000.

11.2.2 Construction Engineering. The Municipality's share for construction engineering is estimated to be \$10,200. This is calculated as 5% of Municipality's share of construction costs.

- 11.3 Payment by Municipality:** Upon award of the construction contract, the State will invoice the Municipality for Municipality's cost share of construction and construction engineering. The Municipality shall pay the State within 30 calendar days of receipt of invoice from the State. The final settlement between the State and the Municipality will be made following final audits and when the final costs have been determined by the State.

SECTION 12. TRAFFIC CONTROL

- 12.1 All traffic control devices will conform to the latest approved edition of the Manual on Uniform Traffic Control Devices and Nebraska Supplements thereto.
- 12.2 If Municipality is to perform or contract for any work on the state highway within the project limits, Municipality will develop a traffic control plan related to that work. The plan will be provided to State's Project Manager for review and acceptance. Municipality will provide, operate and maintain Municipality's traffic control devices in accordance with its accepted traffic control plan.
- 12.3 Municipality's work must comply with all traffic safety regulations, including those prescribed in the latest approved edition of the Manual of Uniform Traffic Control Devices and the Nebraska Supplement thereto. Municipality shall use caution when working in State ROW.

SECTION 13. PLANS AND SPECIFICATIONS

The plans and specifications for this project will be on file in the Lincoln central headquarters office of the Nebraska Department of Transportation.

SECTION 14. TERMINATION

State has the sole discretion to suspend the work in part or in whole or to terminate this Agreement; such action on its part will in no event be deemed a breach of this Agreement by State. State will provide written notification to Municipality of such suspension or termination.

SECTION 15. FAIR EMPLOYMENT PRACTICES ACT

Municipality agrees to abide by the Nebraska Fair Employment Practices Act, as provided by Neb.Rev.Stat. 48-1101 through 48-1126.

SECTION 16. DISADVANTAGED BUSINESS ENTERPRISES

- 16.1 **Policy:** Municipality and State further agree to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement.
- 16.2 **Disadvantaged Business Enterprises Obligation:** Municipality and State further agree to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard, Municipality shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Municipality shall not discriminate on the basis of race, color, sex, age, disability, or national origin in the award and performance of FHWA assisted contracts.
- Municipality acting as a sub-recipient of Federal-aid funds on this project agrees to adopt the Nebraska Disadvantaged Business Enterprise Unified Certification Program for the Federal-aid contracts Municipality executes on this project.
- Failure of Municipality to carry out the requirements set forth above on any work performed by Municipality shall constitute breach of contract and, after the notification of the FHWA, may result in termination of the Agreement or contract by State or such remedy as State deems appropriate.

SECTION 17. TITLE VI NONDISCRIMINATION CLAUSES

During the performance of this Agreement, the Municipality, for itself, its assignees and successors in interest agrees as follows:

- 17.1 **Compliance with Regulations:** The Municipality shall comply with the Regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Parts 21 and 27, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- 17.2 **Nondiscrimination:** The Municipality, with regard to the work performed by it after award and prior to completion of the contract work, shall not discriminate on the basis of race, color, sex, age, religion, disability or national origin in the selection and retention of

subcontractors, including procurements of materials and leases of equipment. The Municipality shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix "A," "B," and "C" of Part 21 of the Regulations.

17.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment:

In all solicitations either by competitive bidding or negotiation made by the Municipality for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Municipality of the Municipality's obligations under this Agreement and the Regulations relative to nondiscrimination on the basis of race, color, sex, age, religion, disability or national origin.

17.4 Information and Reports: The Municipality shall provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Municipality shall so certify to State, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.

17.5 Sanctions for Noncompliance: In the event of the Municipality's noncompliance with the nondiscrimination provisions of this Agreement, State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including but not limited to:

- (a) Withholding of payments to the Municipality under this Agreement until the Municipality complies, and/or
- (b) Cancellation, termination or suspension of this Agreement, in whole or in part.

17.6 Incorporation of Provisions: The Municipality shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Municipality shall take such action with respect to any subcontract or procurement as State or the FHWA may direct as a means of enforcing such

provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Municipality may request State to enter into such litigation to protect the interests of State, and in addition, the Municipality may request the United States to enter into such litigation to protect the interests of the United States.

SECTION 18. ENTIRE AGREEMENT

This Agreement, including all exhibits and documents incorporated or included herein, constitutes the entire agreement of the Parties. This Agreement supersedes all communications, representations, understandings, either oral or written hereto, leading up to this Agreement. Any existing written agreements between the Parties remain in effect, except the language of this Agreement governs over conflicting language on the same subject in an existing written agreement.

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IN WITNESS WHEREOF, the Parties hereby execute this Agreement pursuant to lawful authority as of the date signed by each party.

EXECUTED by Municipality this _____ day of _____, 2019.

WITNESS:

CITY OF GRAND ISLAND

City Clerk

Mayor

EXECUTED by State this _____ day of _____, 2019.

STATE OF NEBRASKA
DEPARTMENT OF TRANSPORTATION
Michael H. Owen, P.E.

RECOMMENDED:
Wesley Wahlgren, P.E.

Roadway Design Engineer

District 4 Engineer

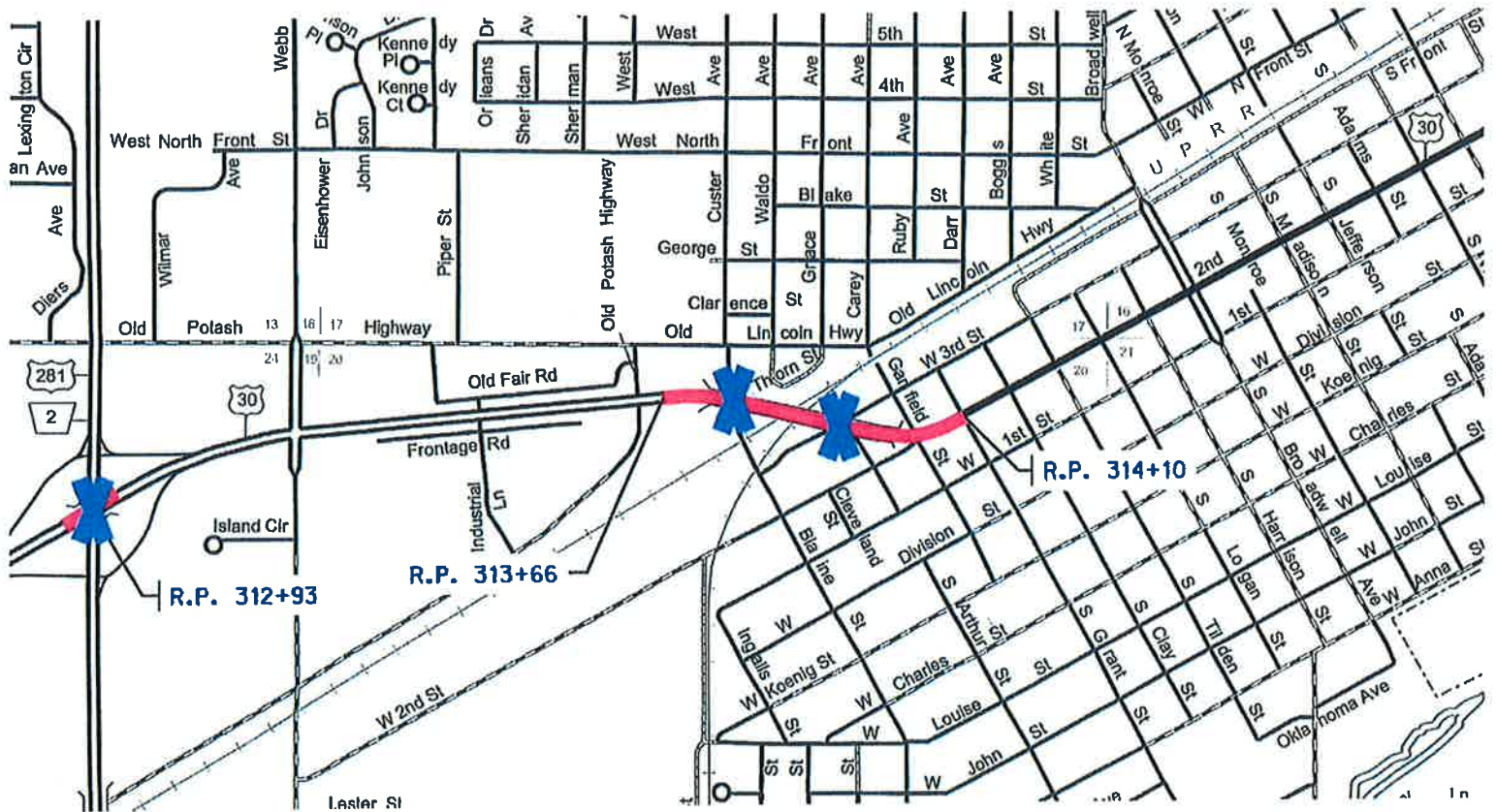
Date

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GRAND ISLAND

HALL COUNTY
NEBRASKA



PROJECT BRIDGES



PROJECT LIMITS

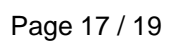


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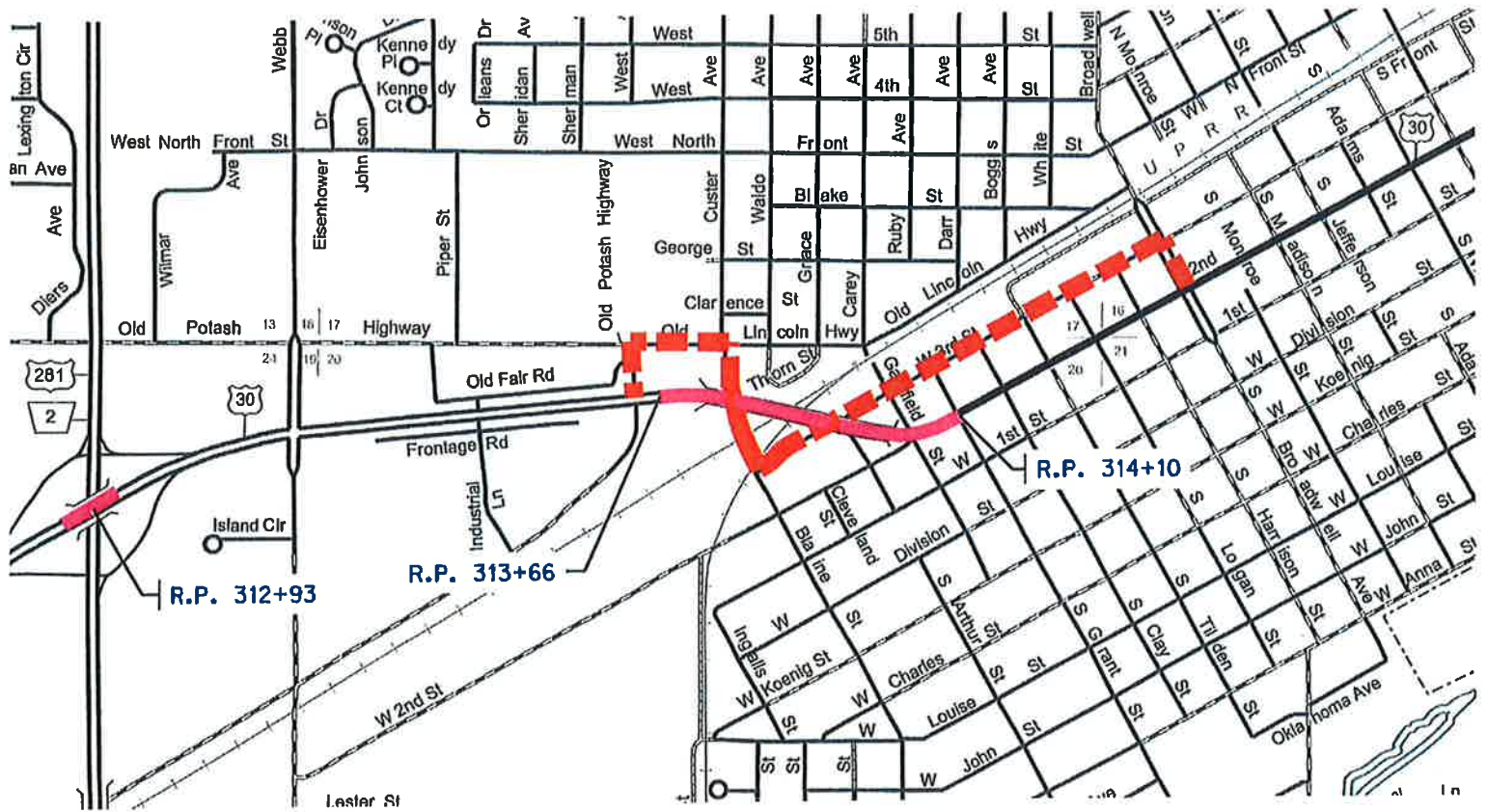
EXHIBIT "A"

HALL COUNTY NEBRASKA



GRAND ISLAND

HALL COUNTY
NEBRASKA



TRAFFIC

PROJECT LIMITS



30-4(162)

C.N. 42776

EXHIBIT "C"

RESOLUTION 2019-78

WHEREAS, the Nebraska Department of Transportation is preparing plans for improvements to US Highway 30 bridges at the junction of US Highway 30 and US Highway 281/North 2 and from the intersection of US Highway 30 and Old Lincoln Highway east to the intersection of US Highway 30 and Grant Street, with the City cost sharing on the portion within City limits; and

WHEREAS, such improvements shall consist of:

- Repairing and milling the existing roadway and resurfacing with asphalt
- Replacing approaches, remodeling abutments and wing walls, replacing or constructing median barrier, and sidewalk overlay, as well as other necessary repairs.

WHEREAS, this project is to be constructed with a cost share from the City of Grand Island, currently estimated at \$213,200.00; and

WHEREAS, an agreement with the Nebraska Department of Transportation is required to proceed with this project.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the agreement with the Nebraska Department of Transportation for the improvements to US Highway 30 bridges at the junction of US Highway 30 and US Highway 281/North 2 and from the intersection of US Highway 30 and Old Lincoln Highway east to the intersection of US Highway 30 and Grant Street is hereby approved.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to execute such agreement on behalf of the City of Grand Island.

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Adopted by the City Council of the City of Grand Island, Nebraska, February 26, 2019.

Roger G. Steele, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐	_____
March 8, 2019	☐	City Attorney