

CITY OF CRETE, NEBRASKA
CITY COUNCIL REGULAR MEETING
January 3, 2023

Notice of the meeting was given by posting and publishing in The Crete News, the appointed method for giving notice as shown by the Proof of Publication attached to the minutes. Advance notice of the meeting was also given to the Mayor and City Council. Pursuant to Section 84-1412(8) of the Nebraska Open Meetings Act, the City has posted a current copy of the Open Meetings Act, Laws of the State of Nebraska in the back of the Council Chambers. Additional copies are available to read. The City may consider items listed on the agenda in random order. All proceedings shown were taken while the meeting was open to the attendance of the public.

Those in attendance pledged allegiance to the flag.

1. Open Meeting
2. Roll Call
3. Items of Business
 - 3.A. Provide a recommendation to the City Council on authorizing the Mayor to sign the Certificate of Compliance and Agreement Renewal for the Maintenance Agreement with the Nebraska Department of Transportation.
 - 3.B. Provide a recommendation to the City Council on approving Amendment No. 1 to the Owner-Engineer Agreement with JEO in the amount of \$5,000 for the 2022 Street Improvement project.
 - 3.C. Discuss the One and Six Year Plan.
 - 3.D. Discuss the agreement with Nestle Purina regarding annexation and payment for the paving of North Boswell.
4. Officers' Reports
5. Adjournment

Mayor

(SEAL)

City Clerk-Treasurer

I, Jerry Wilcox, City Clerk for the City of Crete, hereby certify that the foregoing is a true and correct copy of the proceedings had and done by the Mayor and Council. I hereby certify that a copy of the Open Meetings Act was posted in the back of the Council Chambers. I certify that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk. I certify that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting and that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public. I certify that the minutes were in written form and available for public inspection within ten working days and prior to the next convened meeting of the City Council. I certify that all news media requesting notification

concerning meetings of the City Council were provided with advance notification of the time and place of said meeting and the subjects to be discussed.

City Clerk-Treasurer

(S E A L)

NEBRASKA

Good Life. Great Journey.

DEPARTMENT OF TRANSPORTATION



Pete Ricketts, Governor

December 6, 2022

City of Crete
243 E 13th St.
PO Box 86
Crete, NE 68333

Dear City Clerk:

Please execute the enclosed Certificate of Compliance and 2023 Maintenance agreement and return the original forms to our office as soon as possible.

When we have all signatures required, an original of the fully signed Certificate of Compliance and Agreement will be returned to you.

Please return the signed forms to the address below:

Nebraska Department of Transportation
Attn: Bob Rankin
302 Superior St
Lincoln, NE 68521

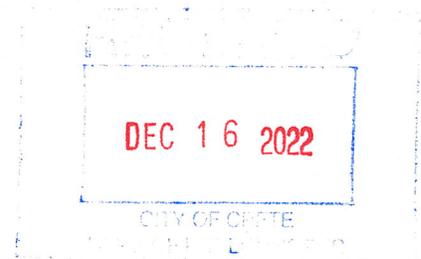
If your city limits have changed, please advise us of your new limits.

If you have any questions, please call Bob Rankin at (402) 471-0850, Ext. 1225.

Sincerely,

A handwritten signature in black ink that reads "Bob Rankin".

Bob Rankin
District Operations and Maintenance Manager
NDOT – 302 Superior St, Lincoln
402-471-0850 ext. 1225





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DEPARTMENT OF TRANSPORTATION

CERTIFICATE OF COMPLIANCE

Maintenance Agreement No. 57 QE 2207 Supp _____
Maintenance Agreement between the Nebraska Department of Transportation and the
Municipality of Crete
Municipal Extensions in Crete

We hereby certify that all roadway surface maintenance has been accomplished as per terms of the Maintenance Agreement specified above.

As per Section 8d of the Agreement, we are submitting this certificate to District Engineer Thomas Goodbarn, Department of Transportation, Lincoln, Nebraska.

ATTEST: _____ day of _____, 2022.

City Clerk *Mayor/Designee*

I hereby certify that all roadway surface maintenance was performed as per the above listed agreement and payment for the same should be made.

District Engineer, Department of Transportation

For Office Use Only	
Agreement No.:	_____
Pay/Bill Code:	_____
Contractor No.:	_____
Amount:	\$ _____

MAINTENANCE OPERATION AND RESPONSIBILITY
Municipal extensions and connecting links
(Streets Designated Part of the State Highway System excluding Freeways)

Maintenance Responsibility
 Neb. Rev. Stat. § 39-2105

<u>Maintenance Operation</u> Neb. Rev. Stat. § 39-1339	Metropolitan Cities (Omaha)	Primary Cities (Lincoln)	1 st Class Cities	2 nd Class Cities & Villages
Surface maintenance of the traveled way equivalent to the design of the rural highway leading into municipality.	Department	Department	Department	Department
Surface maintenance of the roadway exceeding the design of the rural highway leading into the municipality including shoulders and auxiliary lanes.	City	City	City	City
Surface maintenance on parking lanes.	City	City	City	Department
Maintenance of roadway appurtenances (including, but not limited to, sidewalks, storm sewers, guardrails, handrails, steps, curb or grate inlets, driveways, fire plugs, or retaining walls)	City	City	City	City or Village
Mowing of the right-of-way, right-of-way maintenance and snow removal.	City	City	City	City or Village
Bridges from abutment to abutment, except appurtenances.	Department	Department	Department	Department

Maintenance Responsibility
 Neb. Rev. Stat. § 60-6, 120 & § 60-6, 121

<u>Maintenance Operation</u> Neb. Rev. Stat. § 39-1339	Metropolitan Cities (Omaha)	Primary Cities (Lincoln)	1 st Class Cities > 40,000	1 st Class Cities < 40,000	2 nd Class Cities
Pavement markings limited to lane lines, centerline, No passing lines, and edge lines on all connecting links except state maintained freeways	City	City	City	Department	Department
Miscellaneous pavement marking, including angle and parallel parking lanes, pedestrian crosswalks, school crossings, etc.	City	City	City	City	City
Maintenance and associated power costs of traffic signals and roadway lighting as referred to in original project agreement.					
Procurement, installation and maintenance of guide and route marker signs	City	City	City	Department	Department
Procurement, installation and maintenance of regulatory and warning signs.	City	City	City	Department	Department



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DEPARTMENT OF TRANSPORTATION

City Maintenance Agreement

Attachment B

City of: Crete

Date: 12/1/21

Surface Maintenance

From Attachment "C", it is determined that the State's responsibility for surface maintenance within the City limits is 10.46 lane miles. Pursuant to Sections 1a, 8a, 8d of the Agreement and to Attachment "C" made part of this Agreement through reference, the State agrees to pay to the City the sum of \$2,100.00 per lane mile for performing the surface maintenance on those lanes listed on Attachment "C".

Amount due the City for surface maintenance:
 10.46 lane miles x \$2,100.00 per lane mile = \$21,966.00.

Snow Removal

From Attachment "A", it is determined that snow removal within City limits is the responsibility of the City. Pursuant to Section 8d of the Agreement and to Attachment "C" made a part of this Agreement through reference, the City agrees to pay to the State the sum of \$ _____ per lane mile for performing snow removal on those lanes listed on Attachment "C".

Amount due the State for snow removal:
 _____ lane miles x \$ _____ per lane mile = \$ _____

Other (*Explain*)

**STATE OF NEBRASKA
DEPARTMENT OF TRANSPORTATION**

**RESPONSIBILITY FOR SURFACE MAINTENANCE
OF MUNICIPAL EXTENSIONS**

**NEBRASKA REVISED STATUTE 39-1339
AND NEBRASKA REVISED STATUTE 39-2105**

Description	Hwy No.	Beginning R.P.	End R.P.	Length (MI)	Driving Lanes Total	Lane Miles Total	State	City
West City Limits to Pine Ave	33	9.47	10.8	1.33	2	2.66	2.66	0
Pine Ave to East City Limits	33	10.8	13.29	2.49	3	7.47	4.98	2.49
South City Limits to Beginning of One-Way Cutoff	103	41.29	42.62	1.33	2	2.66	2.66	0
One-Way Cutoff to N-33 Jct	103	42.62	42.7	0.08	3	0.24	0.16	0.08
				0		0		
				0		0		
				0		0		
				0		0		
				0		0		
				0		0		
				0		0		
				0		0		
				0		0		
				0		0		
Total Lane Miles				5.23		13.03	10.46	2.57

AGREEMENT RENEWAL

Maintenance Agreement No. 57
Maintenance Agreement between the Nebraska Department of Transportation and the
Municipality of Crete
Municipal Extensions in Crete

We hereby agree that Maintenance Agreement No. 57 described above be renewed for the period January 1, 2023 to December 31, 2023.

All terms and attachments to remain in effect as per the original agreement with revised rates per Attachment B attached hereto.

In witness whereof, the parties hereto have caused these presents to be executed by their proper officials thereunto duly authorized as of the dates indicated below.

Executed by the City this _____ day of _____, 2022.

ATTEST: City of _____ Crete _____

City Clerk/Witness

Mayor/Designee

Executed by the State this _____ day of _____, 2022.

ATTEST: State of Nebraska

District Engineer, Department of Transportation

MAINTENANCE OPERATION AND RESPONSIBILITY
Municipal extensions and connecting links
(Streets Designated Part of the State Highway System excluding Freeways)

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Procurement, installation and maintenance of regulatory and warning signs.	City	City	City	Department	Department



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DEPARTMENT OF TRANSPORTATION

City Maintenance Agreement

Attachment B

City of: Crete

Date: 12/6/22

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Amount due the State for snow removal:
 _____ lane miles x \$ _____ per lane mile = \$ _____

Other (*Explain*)

**STATE OF NEBRASKA
DEPARTMENT OF TRANSPORTATION**

**RESPONSIBILITY FOR SURFACE MAINTENANCE
OF MUNICIPAL EXTENSIONS**

**NEBRASKA REVISED STATUTE 39-1339
AND NEBRASKA REVISED STATUE 39-2105**

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One-Way Cutoff to N-33 Jct	103	42.62	42.7	0.08	3	0.24	0.16	0.08
				0		0		
				0		0		
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				0		0		
				0		0		
				0		0		
				0		0		
				0		0		
				0		0		
				0		0		
Total Lane Miles				5.23		13.03	10.46	2.57



**AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. 1**

The Effective Date of this Amendment is:

ARTICLE 1 – BACKGROUND DATA

Effective Date of Owner-Engineer Agreement: **02/15/2022**
Owner: **Crete, NE**
Engineer: **JEO Consulting Group, Inc.**
Project: **Crete 2022 Street Improvements (220169.00)**

ARTICLE 2 – NATURE OF AMENDMENT

Additional Services to be performed by Engineer

ARTICLE 3 – DESCRIPTION OF MODIFICATIONS

Perform field work and research to identify precise property corners of existing properties adjacent to the corner of Oak Ave & 18th St and along N 21st St to support the City's acquisition of two permanent easements. This scope also includes developing legal descriptions, in JEO format, for these two permanent easements.

ARTICLE 4 – AGREEMENT SUMMARY

Original agreement amount:	\$ <u>198,430.00</u>
Net change for prior amendments:	\$ <u>0.00</u>
This amendment amount:	\$ <u>5,000.00</u>
Adjusted Agreement amount:	\$ <u>203,430.00</u>

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit B.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this, or previous Amendments remain in effect.

OWNER:

ENGINEER: **JEO Consulting Group, Inc.**

By: _____
Print name: _____

By: 
Print name: Nathan Boone

Title: _____

Title: Sr. Project Manager

Date Signed: _____

Date Signed: 12/22/2022

AGREEMENT FOR PAYMENT IN LIEU OF ANNEXATION

THIS AGREEMENT FOR PAYMENT IN LIEU OF ANNEXATION (the “Agreement”) is made and entered into as of [REDACTED], 2023 by and among the City of Crete, a municipality incorporated and existing under the laws of the state of Nebraska (“City of Crete”), and Nestlé Purina PetCare Company, a Missouri corporation (“Nestlé Purina”).

RECITALS:

- A. Nestlé Purina owns property in Saline County, Nebraska that is situated outside the present corporate limits of City of Crete, but abuts to property within the corporate limits of the City of Crete (such Nestlé Purina owned property being depicted on Exhibit A attached hereto and incorporated herein and such real estate shall be referred to herein as the “Nestlé Purina Subject Property”).
- B. City of Crete is currently evaluating whether to annex the Nestlé Purina Subject Property.
- C. City of Crete and Nestlé Purina desire agree to an alternative to annexation that serves the best interests of City of Crete and Nestlé Purina.
- D. City of Crete and Nestlé Purina agree that Nestlé Purina will make a one-time payment to the City of Crete in the amount described in Section 2 of this Agreement, and the City of Crete shall not annex the Nestlé Purina Subject Property for a period of twenty (20) years beginning on the date hereof and ending [REDACTED], 2043.

NOW THEREFORE IN CONSIDERATION of the mutual promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City of Crete and Nestlé Purina hereby agree as follows:

1. Agreement Not to Annex Nestlé Purina Subject Property: City of Crete hereby agrees that during the period beginning on the date hereof and ending on [REDACTED], 2043 (the “Term”), City of Crete shall not annex or permit the annexation of the Nestlé Purina Subject Property into the city boundaries of the City of Crete and that City of Crete will not undertake any steps or measures preliminary to the annexation of the Nestlé Purina Subject Property.

2. Payment by Nestlé Purina; City of Crete Paving of Road Adjoining Nestlé Purina Subject Property:

(a) Nestlé Purina hereby agrees that it shall pay City of Crete a one-time payment in the amount of Three Hundred Seventy-Five Thousand Dollars (\$375,000) (the “Payment”). The Payment shall be made within thirty (30) days of the effective date of this Agreement.

(b) On or prior to December 31, 2023, City of Crete, at its own expense, shall pave the road adjoining the Nestlé Purina Subject Property. The amount of the Payment shall not vary based on the actual expense incurred by City of Crete in performing such paving.

3. Nestlé Purina Subject Property Not Subject to City of Crete Ordinances: During the Term hereof, the Nestlé Purina Subject Property and personal property at such site shall not be within the corporate limits of the City of City of Crete and it (and Nestlé Purina as the owner of it) shall not be subject to any assessments or taxes levied by City of Crete or to ordinances and regulations of City of Crete, except such ordinances and regulations of City of Crete, which by their terms are applicable to properties located outside the corporate limits of the City of City of Crete and then only to the extent that such ordinances and regulations

may permissibly apply extraterritorially.

4. Conditions Precedent of City of Crete: The following shall be conditions precedent to Nestlé Purina's obligations under this Agreement and if all conditions precedent have not been fulfilled or waived by Nestlé Purina prior to March 31, 2023, Nestlé Purina at its option and in its sole discretion, may terminate this Agreement effective upon written notice to City of Crete: (a) the City Council of City of Crete by resolution duly adopted shall have approved the execution and performance hereof by City of Crete and a copy of such resolution shall have been provided to Nestlé Purina; and (b) the City of Crete has duly executed this Agreement.

5. Entire Agreement; No Implied Agreement: This this Agreement constitutes the entire agreement between City of Crete and Nestlé Purina with respect to the subject matter hereof and all prior negotiations, understandings, and arrangements are merged herein and there are no other terms and conditions hereof. Nothing contained herein shall impose upon either City of Crete or Nestlé Purina any implied obligations or duties of any nature or kind.

6. Successors and Assigns: This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of City of Crete and Nestlé Purina. Specifically, City of Crete and Nestlé Purina agree that this Agreement shall run with the Nestlé Purina Subject Property and all portions thereof and that it shall inure to the benefit of and binding upon all subsequent owners of the Nestlé Purina Subject Property or any portion thereof.

7. Governing Law: This Agreement shall be governed in all respects by the laws of the State of North Nebraska, without regard to its conflicts of laws principles.

8. Notices: Any notices under this Agreement shall be sent via U.S. First Class Mail or hand delivery to the following addresses:

If to Nestlé Purina:
Nestlé Purina PetCare Company
Attn: Factory Manager
2305 E. Highway 33
Crete, NE 68333

With a copy to:
Nestlé Purina PetCare Company
Attn: General Counsel
One Checkerboard Square
St. Louis, MO 63164

If to City of City of Crete:
City of Crete
243 E. 13th Street
Crete, NE 68333
Attn:

[Signature Page Follows]

Authorized representatives of the parties hereto have executed this Agreement as of the date first written above.

City of Crete

Nestlé Purina PetCare Company

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit A
Subject Premises

[Insert Depiction]