

*Interlocal Agreement  
Public Building Commission*

THIS INTERLOCAL AGREEMENT is made and entered into by and between the City of Lincoln, Nebraska, hereinafter referred to as "City", the County of Lancaster, Nebraska, hereinafter referred to as "County," and the Lincoln-Lancaster County Public Building Commission, hereinafter referred to as "Commission" on this 10th day of July, 1996.

**RECITALS**

**I.**

The Commission has been created pursuant to Neb. Rev. Stat. § 13-1301 et seq. for the purpose of designing, acquiring, constructing, maintaining, operating, improving, remodeling, and reconstructing such projects for the use both by the City and the County as are approved by the City and the County, and all facilities necessary or convenient in connection with any such projects;

**II.**

The City, the County, and the Commission have previously entered into an interlocal agreement dated August 13, 1991. Because of the nature of certain projects that have recently been undertaken by the Commission and due to increased responsibilities which have been reposed in the Commission, the parties deem it advisable to revise the existing interlocal agreement to incorporate necessary changes required by such new projects, to clarify procedures relating to tort claims, to establish the position of Building Administrator as an unclassified department head of the County, and to administratively transfer all City employees currently providing building and grounds services to the County's Department of Building and Grounds.

NOW, THEREFORE, it is mutually agreed by and between the parties as follows:

**1. Transfer of Projects to the Commission.**

(a) In order to further the purposes for which the Commission was created, the County and the City may, from time to time, lease or transfer to the Commission such Projects as the City and County deem appropriate or desirable. For purposes of this Agreement, the term "Project" shall be as defined in Neb. Rev. Stat. § 13-1302 as the same presently exists or as the same may be amended from time to time. The City and the County, either jointly or individually, have previously transferred or leased the following Projects to the Commission:

(1) The New City-County Building and Hall of Justice Project on Block 118, the north 72 feet of Block 129 (which excludes the Lancaster County Intake and Detention Facility located on Block 129, the skywalks providing access to it, and the parking located thereunder), and all of Block 146 and all vacated streets abutting thereon and all vacated alleys located therein, and Lots 4 through 12, and 16 through 18, Block 117, all in Original Plat, Lincoln, Lancaster County, Nebraska, together with all existing and proposed buildings, structures, and parking lots appurtenant thereto which are now located or are to be located on the described property by Lease dated April 1, 1996;

(2) The K Street Power Plant located at 425 South 9th Street and legally described as the south 11 feet of Lot 7, all of Lots 8 through 13, all of Lots 16 through 18, and the vacated alley adjacent to said Lots, all in Block 102, Original Plat of the City of Lincoln, Lancaster County, Nebraska, and Lots 1 through 7, Lincoln Land Company Subdivision of Block 102, Original Plat of the City of Lincoln, Lancaster County, Nebraska, by Lease dated October 11, 1994;

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(3) 233 South 10th Street (Police Building) located on Lots 16, 17, and 18, Block 69, Original Plat of the City of Lincoln, Lancaster County, Nebraska, by Lease dated July 16, 1993;

(4) The Old Federal Building located on the north 215 feet of Block 43, Original Plat of Lincoln, Lancaster County, Nebraska, commonly known as 129 North 10th Street, by Lease dated July 16, 1993;

(5) 3145 "O" Street, legally described as Lots 1, 8, 9, 10, 11, 12, 13 and 14, Block 1, together with the vacated east-west alley abutting on said Lots 1 and 14, Block 1, and the south one-half of the vacated east-west alley abutting Lot 13, Block 1, and the north 10 feet of vacated "N" Street abutting Lots 8 through 14, Block 1; Lots 1, 2, 3 and 4, Block 4, and that portion of the east-west alley south of and abutting Lots 1 through 4, Block 4, all in Plainview Addition, Lincoln, Lancaster County, Nebraska (City-County Health Department Building);

which Projects are hereby confirmed and ratified by the parties. In addition to the terms and conditions as set forth in the transfer or lease agreements applicable to the respective Projects, the duties and responsibilities of the parties relating to the Projects shall be, to the extent not inconsistent with such transfer or lease agreements, in accordance with the provisions of this Interlocal Agreement.

(b) All responsibility for maintaining, improving, remodeling, operating and reconstructing the Projects, as may be from time to time deemed necessary or desirable, shall be performed by the Commission on behalf of the City and the County.

(c) The Commission shall also provide maintenance services to the Lancaster County Intake and Detention Facility, the skywalks providing access to it, and the parking located thereunder. The Commission shall annually propose to the County a budget for the cost of the maintenance of the Lancaster County Intake and Detention Facility and the skywalks providing access to it, which budget shall be subject to approval of the County, and, upon approval, the County shall transfer on the first day of each quarter of the County's fiscal year to the Public Building Commission Fund one-fourth (1/4) of the amount of the approved budget. Maintenance of the parking located thereunder shall be paid by the Commission from its budget.

(d) The City and the County may also, by ordinance of the City Council and by resolution of the County Board, lease or transfer to the Commission such other Projects as the City and County may presently own, lease, maintain, or operate and any such Project so leased or transferred to the Commission shall automatically become subject to the terms and conditions of this Agreement. In the case of real property so leased or transferred, the title thereto shall remain in the City or County, as their interests may appear, but the Commission shall have the use and occupancy thereof so long as its corporate existence shall continue, or for the term of such lease, as the case may be. In the case of personal property so conveyed, title thereto shall pass to the Commission.

**2. Space Allocation.** The Commission shall be responsible for the provision of space to, and the equitable allocation of space among, City and County departments, agencies, and functions within the Projects. The Commission shall charge to the department, agency, or function to which space is provided a square footage charge based upon the number of square feet allocated to such department, agency, or function, which square footage charge may include an operating

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component representing a factored cost of utilities (except telephone, cable television, and any computer cable services), maintenance, depreciation, and ordinary repairs as determined by the Commission as well as a debt service component as permitted or required by the particular Project lease or other agreement.

All requests for space shall be made in writing by the Mayor or by the County Board Chairman for their respective departments, agencies, or functions. The Commission shall review such requests and shall make such allocations of space as the Commission deems appropriate.

**3. Construction, Reconstruction, and Remodeling Projects.** Any interior construction, reconstruction, or remodeling project within a Project shall first be approved by the Commission. Requests for such interior construction, reconstruction, or remodeling projects shall be submitted by the appropriate department or agency head sufficiently in advance of the commencement of the Commission's fiscal year to allow for consideration of such remodeling or reconstruction project, and inclusion in the budget of the Commission if approved. All approved construction, reconstruction, and remodeling projects shall be funded from funds available to the Commission as provided for in paragraph 11.

**4. New Projects; Approvals.** Any new Project which the Commission proposes to undertake shall first be approved by resolution of the City Council and of the County Board. Upon such approval of a new Project, the Commission shall be authorized to acquire in the name of the City and the County, by gift, grant, bequest, purchase, or condemnation real property or rights and easements thereon necessary for or convenient to the completion of the Project and shall be authorized to design, acquire, construct, maintain, operate, improve, remodel, remove or reconstruct such Project and all facilities necessary or convenient in connection with any such Project.

**5. Building Administrator.** The Commission shall select an individual experienced in the field of building management to serve as the Building Administrator, which selection shall be subject to approval by the County Board. The Building Administrator shall be an unclassified employee of the County and shall serve as the department head of the County Building and Grounds Department. The Building Administrator shall be responsible to the Commission to carry out the duties of the Commission under this agreement, as well as such other duties as the Commission may, from time to time, assign to the Building Administrator. The Building Administrator shall be responsible for the hiring, firing, assigning, supervising, and disciplining personnel involved in building operations and maintenance. All such personnel action shall be in accordance with the Lancaster County Personnel Rules and any applicable labor contract.

The Commission shall annually review the job performance of the Building Administrator and shall forward such review, together with an annual salary recommendation, to the County Board for its consideration on or before June 30th of each year. The Building Administrator shall be subject to removal by the County Board upon request of the Commission.

**6. Building Architect.** The Commission may retain the services of a qualified architect or architectural firm to serve as Commission Architect to provide such architectural services as may be from time to time deemed necessary in fulfilling the responsibilities of Commission under this interlocal agreement.

**7. County Building and Grounds Department; Use of Services by Commission; Transfer of City Employees to County.**

(a) All employees of the County Building and Grounds Department shall be administratively assigned to the Commission who may use the services of such employees to fulfill its responsibilities under this Agreement. All such employees shall be under the direct supervision of the Building Administrator as provided in Section 5 of this Agreement.

(b) The Commission shall annually submit to the County Board a proposed budget for salary and fringe benefits of personnel of the Building and Grounds Department for inclusion in the County's annual budget. The Commission shall periodically pay to the County, from the Public Building Commission Fund, such amounts as are necessary to pay all current payroll and other expenses which may be incurred in the operation of the department. Expense statements shall be forwarded by the Building Administrator to the chairman, or in his absence, the vice-chairman, who shall sign the necessary requisition and transmit the same to the County Treasurer pursuant to Neb. Rev. Stat. §13-1305. Within thirty days after the end of the preceding County fiscal year, the County shall refund to the Commission any amounts paid to the County in excess of the actual amounts expended to fund the Building and Grounds Department or the Commission shall reimburse the County for any deficit in amounts paid to fund the Building and Grounds Department, as the case may be.

(c) In order to clarify the supervisory authority and responsibility of the Building Administrator for all employees engaged in building and grounds functions, the current City employees who are set forth in Attachment "A", which is attached hereto and made a part hereof by reference, shall be transferred from City position classifications to County position classifications as described in said Attachment on July 8, 1996. All such employees who are presently participating in the City's retirement plan shall have all employee and City contributions as have been paid into the City's plan to such employee's account transferred to the retirement plan of the County and shall thereafter participate in the retirement plan of the County on the same basis as all other County employees; provided, however, any contributions attributable to the City which are forfeited by such employees pursuant to the terms of the County Retirement Plan shall be reimbursed and paid over to the City. All other such employees shall be required to participate in accordance with the terms and conditions of the County retirement plan, unless such requirement is modified by the County in the future.

Such employees shall retain all accrued vacation and sick leave benefits to which they are entitled as of the date of this agreement; provided, however, the use and subsequent accrual of such vacation and sick leave shall be governed by the personnel rules and regulations of the County, and any applicable labor agreement.

Continuous years of service accrued by such employees in City service shall count for all purposes toward those benefits determined by continuous years of service in County employment. All other provisions of the County personnel rules or applicable contracts shall apply to such employees after the date of transfer.

Nothing herein stated shall prevent the dismissal, demotion, or suspension of any such employee resulting from appropriate disciplinary action, or separation of employees resulting from lack of funds or curtailment of work.

**8. Tort Liability; Filing of Claims with City Attorney; Payment of Claims.** In providing services under this Interlocal Agreement, the Commission is acting as an agent for the City and the County. The City and the County shall save, defend, and hold harmless the Commission from any and all claims of whatsoever kind or nature for damage to property or for bodily injury, including death, made by anyone whomsoever which may arise out of the Commission's performance of its duties under this Interlocal Agreement.

Pursuant to Neb. Rev. Stat. § 13-905 (Reissue 1991), the Commission hereby provides that all tort claims against the Commission shall be filed with the City's Law Department, which shall be responsible for presenting such claim to the Commission. The Building Commission shall maintain premises liability insurance on all projects which are the subject of this agreement, but, to the extent that insurance does not cover any claim, such claim shall be paid pro rata by the City and the County based upon their comparative occupancy of space in the project at or in which the claim arose.

All suits against the Commission arising out of a tort claim shall be defended by the City's Law Department, but the County Attorney's Office will be notified in writing of the filing of such suit and be entitled to participate in the defense thereof.

**9. Purchases by and Contracts of the Commission; Application of County Purchasing Act.** In making all purchases required for the performance of its duties under this Interlocal Agreement, the Commission shall utilize the services of the County purchasing agent and all such purchases shall conform to the procedures, competitive bidding requirements, and considerations as set forth in Neb. Rev. Stat. §§ 23-3108, 23-3109, 23-3110, and 23-3111 with the following specific exceptions thereto:

A. Contracts and leases shall be approved as to form by the Attorney for the Commission.

B. Wherever an act or authorization is to be performed or approved by the County Board under the above cited statutes, the Commission in lieu of the County Board shall perform such act or grant such approval.

**10. Services of City and County Offices and Employees; Consent; Reimbursement.** In addition to the services of the Building and Grounds Department, County-City Personnel Department and Purchasing Agent as specifically authorized above, the City and the County, subject to availability of resources, hereby consent to the use by the Commission of the services of such agents, employees, and facilities of the City or County of which the Commission may find it necessary, from time to time, to avail itself of, and for any of such services, including those of the County-City Personnel Department or the Purchasing Agent, the Commission shall reimburse the City or the County their proper proportion of the compensation or cost thereof, all pursuant to Neb. Rev. Stat. § 13-1304 (Reissue 1987).

**11. Funding.** (a) The Commission shall annually submit to the City and to the County a proposed operating budget and a proposed capital budget for all approved construction, reconstruction, or remodeling projects. The operating budget shall be funded and paid by the County and by the City based upon the square footage charges allocable to the various City and County departments, agencies, and functions pursuant to Section 2 hereof.

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The proposed operating budget shall also include a budget for maintenance of the Lancaster County Intake and Detention Facility, the skywalks providing access to it, and the parking located thereunder for consideration by the County, as required by Section 1(~~b~~ c) hereof.

(b) New projects shall be funded as mutually agreed by the City and the County in their approval of such work as a new project of the Commission pursuant to Section 4 of this agreement.

(c) Remodeling projects shall be funded exclusively by the City or by the County based upon whether such remodeling project has been requested by, and is within space allocated to, a City or County department or agency.

(d) When either the County or the City rejects all or part of such proposed budget, the Commission shall reconsider its proposals in light of such rejection and revise the budget where it feels revisions are appropriate and resubmit its proposals where necessary.

(e) All appropriated and unappropriated funds and revenues, if any, granted to or received by the Commission in the performance of the duties imposed upon it by this Agreement and under any applicable law shall be deposited with the County Treasurer and credited to the Public Building Commission Fund.

**12. Personal Property.** Any personal property acquired by the Commission shall, upon termination of this Agreement, be apportioned between the parties based upon their contribution to the Public Building Commission Fund, taking into consideration any revenue derived from other sources which, prior to this Agreement, was income to either the County or the City. The personal property of the City listed in Attachment "B", which is attached hereto and made a part hereof by reference, is transferred to the County for use in the performance of this Interlocal Agreement.

**13. Term of Agreement.** This Agreement shall be effective through August 1, 1996. It shall be automatically renewed from year to year thereafter unless any party hereto gives ninety (90) days written notice in advance of August 1, 1996, or any succeeding August 1st thereafter of its intention to terminate at the end of the yearly period. Upon termination of this Agreement, any unencumbered funds remaining in any Commission account for the operation or maintenance of the any Project by the Commission shall, to the extent that such funds are not restricted by the terms of any outstanding bonded indebtedness, be apportioned between the City and the County based upon their respective contributions to such account.

**14. Prior Agreement Superseded.** The Interlocal Agreement between the City, the County, and the Commission dated August 13, 1991 is superseded in its entirety by this Interlocal Agreement.

IN WITNESS WHEREOF, the City, the County, and the Commission have caused this Agreement to be executed by their duly authorized officers. (Attachments "A" and "B" referred to in this agreement are on file with the City Clerk.) (City Resolution No. A-77457, July 1, 1996; Executed by City July 10, 1996; Executed by County July 2, 1996; Executed by Public Building Commission July 16, 1996).