

ATTACHMENT "A"

**INTERLOCAL AGREEMENT
BETWEEN
CITY OF LINCOLN AND LINCOLN PUBLIC SCHOOLS**

I. INTRODUCTION.

This Agreement is between the City of Lincoln, Nebraska (CITY), on behalf of the Lincoln-Lancaster County Health Department, for the Summer Food Service Program, and Lincoln Public Schools (PROGRAM PROVIDER), with a place of business at 5901 'O' Street, Lincoln, Nebraska, 68510, and (402) 436-1747.

The parties are authorized by the statutes of the State of Nebraska, including the Interlocal Cooperation Act, *Neb. Rev. Stat.* §13-801, et. seq., as amended, to enter into cooperative agreement for the mutual benefit of the parties and to provide services in a manner that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities. Each party shall remain separate entities with separate rights and authorities. Each party retains its own administrator and no separate board shall be created to fulfill the obligations of the Agreement.

II. SERVICES.

The Program Provider and City enter this Agreement for the Program Provider to:

1. Provide sack lunches starting June 7, 2010 through August 13, 2010. The exception to this will be July 5, 2010, when no meals will be provided because of the holiday.
2. Ensure that each lunch meets the meal pattern requirements as specified in the U.S. Department of Agriculture Regulations for the Summer Food Service Program, 7 CFR 225.
3. Follow U.S. Department of Agriculture Regulations for the Summer Food Service Program, 2010 Monitor's Guide for meal substitutions for children with special needs if Program Provider becomes aware of a child with food allergies and secures a statement to such from the child's physician.
4. Adjust the number of lunches for each site by 8:30 a.m. each day.
5. Be permitted to substitute sandwiches left over from the day before due to adjustments in the number of sandwiches needed.
6. Be permitted to substitute food items and add to the menu offering.
7. Choose the fresh fruit; seasonal fruit that is liked by children will be used.
8. Provide all the food items, paper sack, eating utensils (when necessary), napkins, and containers for the food.
9. Provide condiments in portion controlled packs.
10. Assure that adequate coolant containers will be placed in each cooler to ensure temperatures are maintained below 41° F until meals are served.
11. Take temperature of meals and document before they leave Program Provider's kitchen.
12. Submit billing for meal reimbursement at the end of each month; June, July, and August.
13. Decline to bill for the cost of any meals that are spoiled due to neglect by the Program Provider.

The Program Provider and City enter into this Agreement for the City to:

1. E-mail next day's meal counts to Program Provider by 3:00 p.m.
2. Provide the coolers and coolants for meal transportation, and assume responsibility for cleaning coolers and filling coolants.
3. Complete the paperwork, load, and transport meals to the feeding sites.
4. Accept responsibility for food safety after the meals have left the Program Provider's kitchen.
5. Accept financial responsibility for any meals that are spoiled due to neglect by the City.
6. Return incomplete meals for repack at no charge to the Program Provider. If not returned, City will not receive credit for those incomplete meals.
7. City will reimburse Program Provider for any unused meals returned to Program Provider which they in turn repack for use at a rate of \$1.00 per meal.
8. Process reimbursement paperwork to ensure payment is made within thirty days.

III. TERM.

The term of this Agreement shall be from March 1, 2010 and shall continue until completion of all the obligations of this Agreement, but in no event longer than October 31, 2010. Upon expiration of the term prior to completion, City shall pay the Program Provider for any services completed up to the date of expiration.

IV. COMPENSATION.

City shall pay the Program Provider based on total meals served, for the performance of the services for June 7, 2010 through August 13, 2010. City shall make payments upon partial completion of the services that are satisfactorily documented to the City in the monthly billing.

City will reimburse Program Provider at a rate of \$1.60 per sack breakfast and \$2.75 per sack lunch prepared and picked up. If Program Provider is unable to make substitutions within the provided rate and upon approval of substitutions by City, City shall accept financial responsibility of any food substitution made due to food allergies that would cause the meal to be more costly than the regular meal charge, following U.S. Department of Agriculture Regulations for the Summer Food Service Program, 2010 Monitor's Guide for meal substitutions for children with special needs.

V. TERMINATION FOR BREACH.

Either party has the right to terminate this Agreement if the other party fails to perform as required in this Agreement. Termination rights under this section may be exercised only after the non-breaching party notifies the breaching party of the failure to perform in writing upon giving the other party thirty (30) days written notice. Upon termination, the City shall pay Program Provider for any approved and documented services completed up to the date of termination, but not to exceed the maximum amount allowed by this Agreement.

VI. TERMINATION FOR CONVENIENCE.

City has the right to terminate this Agreement for any reason for its own convenience. If City terminates this Agreement for convenience, City shall provide Program Provider with thirty (30) days written notice of the termination. Upon termination, the City shall pay Program Provider for any approved and documented services completed up to the date of termination, but not to exceed the maximum amount allowed by this Agreement.

VII. TERMINATION FOR LACK OF FUNDING.

The City may terminate this Agreement in whole or in part when funding is not lawfully available for expenditure or when sources of funding are terminated, suspended, reduced, or otherwise not forthcoming through no fault of City. In the event of unavailability of funds to pay any amounts due under this Agreement, City shall immediately notify the Program Provider and this Agreement shall terminate without penalty or expense to City. Upon termination, the City shall pay Program Provider for any approved and documented services completed up to the date of termination, but not to exceed the maximum amount allowed by this Agreement.

VIII. DUTIES GENERALLY.

The Program Provider agrees as follows:

- A. To timely and professionally complete the services as described above, and to furnish their labor and pay all their own costs, including any taxes, required to complete their services.
- B. To furnish everything reasonably necessary to complete the services unless specifically provided otherwise in this Agreement.
- C. To apply for and obtain any and all necessary permits, certifications, licenses, variances, and approvals required by any applicable law or regulations that relate to the services.
- D. To conduct all activities related to the services in a lawful manner.
- E. Provide and perform all necessary labor in a professional and workmanlike manner and in accordance with the provisions of this Agreement.

IX. INDEPENDENT CONTRACTOR.

City is interested only in the results produced by this Agreement. The Program Provider has sole and exclusive charge and control of the manner and means of performance. The Program Provider shall perform as an independent contractor and it is expressly understood that neither the Program Provider nor any of its staff are employees of City and, thus they are not entitled to any City benefits including, but not limited to, overtime, retirement benefits, workers' compensation, sick leave, or injury leave.

X. INSURANCE.

- A. Program Provider shall maintain General Liability Insurance at its own expense during the life of this Agreement, naming and protecting Program Provider and the City of Lincoln, its officials, employees and volunteers as insured, against claims for damages resulting from (a) all acts or omissions, (b) bodily injury, including wrongful death, (c) personal injury liability, and (d) property damage which may arise from operations under this Agreement whether such operations by Program Provider and Program Provider's employees, or those directly or indirectly employed by Program Provider. The minimum acceptable limits of liability to be provided by such insurance shall be as follows:
1. All Acts or Omissions - \$1,000,000 each Occurrence; \$2,000,000 Aggregate; and
 2. Bodily Injury/Property Damage - \$1,000,000 each Occurrence; \$2,000,000 Aggregate; and
 3. Personal Injury Damage - \$1,000,000 each Occurrence; and
 4. Contractual Liability - \$1,000,000 each Occurrence; and
 5. Products Liability and Completed Operations - \$1,000,000 each Occurrence; and
 6. Medical Expenses (any one person) - \$10,000;
 7. Fire Damage (any one fire) - \$100,000.
- B. The following shall be provided and attached to this Agreement by the Program Provider:
1. A Certificate of Insurance for its General Liability Insurance. The City of Lincoln shall be specifically named as an additional insured on the General Liability Insurance.
 2. Proof of Workers' Compensation Insurance, where appropriate.
- C. Program Provider is required to provide the City with thirty (30) days notice of cancellation, non-renewal or any material reduction of insurance as required by this Agreement.

XI. INDEMNIFICATION.

To the fullest extent permitted by law, Program Provider shall indemnify, defend and hold harmless the City, its officers, agents and employees from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of this Agreement, that results in any claim for damage whatsoever, including without limitation, any bodily injury, sickness, disease, death, or any injury to or destruction of tangible or intangible property, including any loss of use resulting therefrom that is caused in whole or in part by the intentional or negligent act or omission of Program Provider, or anyone for whose acts any of them may be liable. This section will not require Program Provider to indemnify or hold harmless the City for any losses, claims, damages, and expenses arising out of or resulting from the sole negligence of the City. The City does not waive its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law. This section survives any termination of this Agreement.

XII. AUDIT PROVISION.

The Program Provider 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.

XIII. FAIR EMPLOYMENT.

The Program Provider shall not discriminate against any employee (or applicant for employment) with respect to compensation, terms, advancement potential, conditions, or privileges of employment, because of such person's race, color, religion, sex, disability, national origin, ancestry, age, or marital status pursuant to the requirements of Lincoln Municipal Code Chapter 11.08, and *Neb. Rev. Stat.* § 48-1122, as amended.

XIV. FAIR LABOR STANDARDS.

The Program Provider shall maintain Fair Labor Standards in the performance of this Agreement, as required by Chapter 73, Nebraska Revised Statutes, as amended.

XVI. NEBRASKA LAW.

This Agreement shall be governed and interpreted by the Laws of the State of Nebraska without reference to the principles of conflicts of law.

XVII. INTEGRATION, AMENDMENTS, ASSIGNMENT.

This Agreement represents the entire agreement between the parties and all prior negotiations and representations are hereby expressly excluded from this Agreement. This Agreement may be amended only by written agreement of both parties. This Agreement may not be assigned without the prior written consent of the other party.

XVIII. SEVERABILITY & SAVINGS CLAUSE.

Each section and each subdivision of a section of this Agreement is hereby declared to be independent of every other section or subdivision of a section so far as inducement for the acceptance of this Agreement and invalidity of any section or subdivision of a section of this Agreement shall not invalidate any other section or subdivision of a section thereof.

XV. ELIGIBILITY TO WORK.

Program Provider and their subcontractors shall use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska pursuant to *Neb. Rev. Stat.* §4-108 to §4-114 as amended.

XIX. CAPACITY.

The undersigned person representing the Program Provider does hereby agree and represent that he or she is legally capable to sign this Agreement and to lawfully bind the Program Provider to this Agreement.

IN WITNESS WHEREOF, the Program Provider and City do hereby execute this Agreement.



Mark Shepard
Associate Superintendent for Business Affairs
5901 'O' Street
Lincoln, NE 68510

Chris Beutler
Mayor of Lincoln
555 South 10th Street
Lincoln, Nebraska 68508

February 23, 2010

Date of Signature

Date of Execution



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/26/2010

PRODUCER UNICO Group, Inc. 4435 O Street Lincoln, NE 68510 402-434-7200	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	INSURERS AFFORDING COVERAGE	NAIC #
INSURED Lancaster County School District #0001 aka Lincoln Public Schools Attn: Sue Wright P O Box 82889 Lincoln NE 68501	INSURER A: Genesis Insurance Company	38962
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> SIR \$150,000 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	YXB300908F	9/1/2009	9/1/2010	EACH OCCURRENCE \$ 5,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COM/PO/ AGG \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS <input checked="" type="checkbox"/> SIR \$150,000	YXB300908F	9/1/2009	9/1/2010	COMBINED SINGLE LIMIT (Ea accident) \$ 5,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
	EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) <input type="checkbox"/> Y/N If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Coverage A: School Liability on an Occurrence Basis excess of a Retained Limit on the School Liability Policy Form.
 Coverage B: School Board Legal Liability on a Claims-Made Basis excess of a Retained Limit on the School Board Legal Liability Policy.
 Policy Coverage/Limits:
 Coverage A: Each Occurrence Limit \$5,000,000 / Coverage A: Coverage Part Aggregate \$5,000,000 Does Not Apply to Automobile Liability
 Coverage B: Each Claim Limit \$5,000,000 / Coverage B: Coverage Part Aggregate \$5,000,000 / Retained Limit Coverage A & Coverage B: \$150,000

CERTIFICATE HOLDER

City of Lincoln
 C/o Lincoln Lancaster County
 Health Department
 3140 N Street
 Lincoln NE 68510

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

(AJG) Cynthia La Manto

ACORD 25 (2009/01)

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CERTIFICATE - ADDENDUM

Named Insured:

Lancaster County School District #0001
aka Lincoln Public Schools
Attn: Sue Wright
P O Box 82889
Lincoln NE 68501

Certificate Holder:

Issue Date: 2/26/2010

City of Lincoln
C/o Lincoln Lancaster County
Health Department
3140 N Street
Lincoln NE 68510

City of Lincoln is shown as Additional Insured as respects the General Liability coverage.



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