

*Interlocal Agreement*  
***Keno Lottery***

THIS INTERLOCAL AGREEMENT is made and entered into on this 26th day of January, 1993, by and between the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City," and the County of Lancaster, Nebraska, a political subdivision of the State of Nebraska, hereinafter referred to as "County."

**RECITALS**

I.

The City, pursuant to an election held on May 12, 1992, and the County, pursuant to an election held on November 3, 1992, are authorized within their respective jurisdictions to conduct keno lotteries. Pursuant to Neb. Rev. Stat. § 9-625 (Reissue 1991), the City and County are authorized to enter into an agreement pursuant to the Interlocal Cooperation Act to conduct a joint lottery.

II.

The City and County are desirous of entering into an agreement pursuant to the Interlocal Cooperation Act (Neb. Rev. Stat. § 13-801 et seq.) for the purpose of conducting such joint lottery.

III.

The purpose of this Interlocal Agreement is to establish a joint lottery to be conducted on behalf of the City and the County, and to establish the rights and responsibilities of the County and the City in relation thereto.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is agreed by and between the parties hereto as follows:

1. **Joint City-County Lottery; Establishment.** The City and the County do hereby agree to exercise their respective authorities to conduct a keno lottery jointly and for the mutual benefit of each of them. It is the intent of this Agreement to operate said joint lottery, to the fullest extent permitted by law, as a single and unified lottery for the benefit of both parties. The City and the County do mutually agree that, notwithstanding any other legal authority that either of them may possess or which may be granted to them in the future, neither party shall authorize or establish a lottery pursuant to the Nebraska County and City Lottery Act (Neb. Rev. Stat. § 9-601 et seq.) except in accordance with the terms and conditions of this Agreement, it being the intent of the parties hereto that neither of them shall in any manner compete with the keno lottery being established hereunder for their mutual benefit through its authorization or establishment of any other county or city lottery while this Agreement is in effect. The City agrees not to tax the joint lottery.

2. **Administration of Joint City-County Lottery.**

A. The Finance Director of the City of Lincoln shall be the administrator of this Agreement and shall generally be responsible for supervision and oversight of the operation of the Joint City-County Keno Lottery.

B. Responsibilities of City. It shall be the responsibility of the City, through its Finance Director:

(i) To administer all activities related to the operation of the Joint City-County Keno Lottery and to administer any Keno Operator Agreement entered into pursuant to the Nebraska County and City Lottery Act for the operation of the keno lottery.

(ii) To make all applications necessary to the Nebraska Department of Revenue for all licenses and other authorizations necessary for the operation of a keno lottery;

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provided, however, that any and all license fees shall be paid one-half by the City and one-half by the County.

(iii) To insure payment of all taxes imposed by the Nebraska County and City Lottery Act.

(iv) To approve all equipment to be utilized by the keno operator in conducting the keno lottery operation.

(v) To administer, supervise, and monitor all other matters necessary for the administration of the keno lottery, it being understood and agreed that the City shall have the sole authority to administer all activities relating to the keno lottery and to administer all contracts entered into regarding the conduct of any such lottery.

C. Audits. It shall be the responsibility of the City to perform or cause the performance of the keno audits which are now or which may be required by the Nebraska County and City Lottery Act and the regulations promulgated in relation thereto. All such audits shall be performed by the City or by an independent accounting firm under contract with the City. The City shall provide to the County copies of all quarterly and annual audits of the keno activity as required by the Nebraska County and City Lottery Act and the regulations promulgated thereto, and copies of any other audits which the City may cause to be performed of the keno activity. In addition, it is understood and agreed that the County reserves the right, at its expense, to audit all receipts and disbursements by the City of lottery proceeds.

D. Monitoring Committee. The City and County will form a Monitoring Committee consisting of two City Council members, two County Commissioners, and the Mayor. The Monitoring Committee annually will review the financial impact upon the services both parties provide the citizens of the City and County. The Monitoring Committee will also review the proceeds split to ensure the split is equitable. The Monitoring Committee will meet as often as its members deem necessary.

3. **Selection of Keno Operator.** The City and the County agree that the City shall be responsible for the selection of a keno lottery operator to operate the Joint City-County Keno Lottery. The City shall make such selection based upon a review of proposals received after issuance of a Request for Proposals. The County reserves the right to submit timely written comments on Proposals before the City selects an operator. The City shall be responsible for selecting the proposed operator and negotiating the terms and conditions of the Keno Lottery Operator's Agreement. Any such Keno Lottery Operator's Agreement shall, however, be subject to final approval of the City Council.

If, as administrator of the Keno Lottery Operator Agreement, the City should determine that the operator is in default and terminates the Operator's Agreement, or if for any other reason the operator terminates the agreement or ceases operations, the City shall notify the County in writing, and the City shall then proceed to begin operation of the keno game or to advertise and solicit new Requests for Proposals for a new keno operator within sixty (60) days from the time the prior keno operator's contract was terminated. If efforts to secure a new keno operator are not commenced within such sixty (60) day period, then the County may, at its option, immediately terminate this Agreement and conduct, or cause to be conducted, its own keno lottery. In the event of such termination, remaining proceeds shall be distributed to the parties in accordance with the provisions of paragraph 10, relating to termination.

4. **Ownership of Property.** All personal property acquired during the term of this Agreement necessary for, or utilized in, the administration of this Agreement shall be and remain in the property of the City.

5. **Site Locations; Establishment; Limitation; Criteria.** Keno locations proposed to be located within the corporate limits of the City shall be subject to the sole approval and authorization of the City, and all keno locations located within the County, but outside the corporate limits of the City, shall be subject to the sole approval and authorization of the County. Notwithstanding the above, the parties agree that, for a period of one year from and after the commencement of operations by the keno operator at its main location, the City shall approve no more than five (5) satellite locations within its corporate limits, and the County shall approve no more than four (4) locations within the County and outside the corporate limits of the City. Thereafter, the City may approve any number of keno satellite locations within the corporate limits of the City and the County may approve any number of keno satellite locations within the County, but only outside the corporate limits of the City; provided, however, any and all such keno satellite locations shall be subject to the following satellite location criteria:

(a) Be licensed to sell liquor on the premises, and on-premises liquor sales shall actually be provided during a majority of the time keno play is offered.

(b) Have sufficient capacity to accommodate persons who may wish to come to the location to observe or play keno, or to engage in all activities conducted on the premises.

(c) Have sufficient facilities to permit the sales of keno tickets.

(d) Provide a board or other monitor, clearly visible to the players, on which the winning numbers are displayed, to the extent possible, simultaneously with their display at the main location serving the satellite location.

(e) Provide proper security for the keno lottery operations and associated activities.

(f) Be in compliance with all applicable State and local building codes and, in particular, shall meet all requirements of the Uniform Fire Code, The State Life Safety Code (NFPS pamphlet 101) and the Americans With Disabilities Act of 1990.

(g) Have no tax delinquencies, tax liens, or other tax compliance deficiencies, whether federal, state or local, against the business property or the business. Furthermore, the proposed owner, lessee, or manager of the satellite location must have not been convicted of, forfeited bond upon a charge of, or pleaded guilty to or nolo contendere to, forgery, theft, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or moral turpitude under any state or federal law.

(h) If located within the corporate limits of the City, be located within a zoning district of the City authorizing restaurant uses as a permitted use.

(i) Provide parking in the ratio of one space for every 100 square feet of seating area plus parking for affiliated uses and employees. All required parking shall be provided on the premises or within 300 feet thereof. Handicapped parking, which need not be in addition to the otherwise required parking, shall be provided and designated as required by the Americans With Disabilities Act of 1990 (42 U.S.C. § 21-101, et seq.) and applicable State and local laws.

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(j) No person with any direct or indirect financial interest in the operation of keno at the location may have been found guilty of or been assessed any fine for any violation of pickle card, gambling, or liquor laws exhibiting lack of integrity during the prior two (2) years.

(k) No main or satellite locations will be considered for approval if the applicant is under investigation by the State of Nebraska or the United States of America for alleged violation of any state or federal gambling law or regulation occurring after the adoption of this criteria.

Provided, that the parties reserve the right to waive strict application of the above criteria for good cause shown.

**6. Distribution of Proceeds.** All proceeds received by the City from the operation of the keno lottery, pickle cards, advertising, and other gambling operations, shall be distributed between the parties as follows:

(a) One percent (1%) of all keno gross proceeds shall be paid to the City to defray the cost of administration of this Agreement. Two percent (2%) of all keno gross proceeds shall be used to pay the state lottery tax. Two percent (2%) of all keno gross proceeds shall be used to pay the remittance to the Thoroughbred Racing Assistance Fund, as long as it is applicable.

(b) Thirty percent (30%) of the remaining keno proceeds shall be payable to the County.

(c) Seventy percent (70%) of the remaining keno proceeds shall be retained by the City.

(d) Thirty percent (30%) of proceeds from pickle cards, advertising, and other gambling operations be payable to the County.

(e) Seventy percent (70%) of proceeds from pickle cards, advertising, and other gambling operations shall be retained by the City.

Payment of proceeds to the County as outlined above shall be paid by the City on a monthly basis, not later than fourteen (14) days after receipt thereof by the City. No interest will be paid on proceeds paid by the City to the County.

**7. Conflict of Interest; Prohibited:** No member of the County Board of the County, no member of the City Council of the City, or the Mayor or any governing official of the County or City shall be connected with or interested in, directly or indirectly, any lottery operator with whom the City contracts to conduct the Joint City-County Lottery. For the purposes of this section, a governing official shall include the chief executive officer of the City or the County or any other elected or appointed official, who had any decision-making responsibility regarding the conduct and operation of the lottery activity.

For the purpose of this section, the definition of "connected with or interested in" shall be that as stated in Regulation 35-600.02(g) of the County and City Lottery Regulations.

**8. Participation in Keno Lottery; Restriction to be Established.** The parties agree that the City, by ordinance, and the County, by resolution, shall promulgate the following restrictions on the participation in the Joint City-County Keno Lottery to be established hereunder:

(a) Members of the City Council of the City, the County Board of the County, the Mayor, the Finance Director of the City, and the City Auditor shall be prohibited from playing or participating in any way in the Joint City-County Keno Lottery established hereunder.

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(b) Any lottery operator with whom the City and County contracts to conduct the lottery and his or her immediate family, employees, or agents shall be prohibited from playing or participating in any way in the Joint City-County Keno Lottery established hereunder. For purposes of this section, "immediate family" shall mean and include spouse, children, grandchildren, brother, sister, parents, father-in-law, or mother-in-law.

9. **Amendment.** This Agreement may be amended only by written amendment approved by the governing bodies of the City and the County.

10. **Term.** This Agreement shall become effective immediately upon its execution by the parties, and shall remain in full force and effect until such time as it is amended or terminated pursuant to the provision for termination as hereinafter set forth.

This Agreement may only be terminated by mutual agreement of the parties hereto or by one party giving the other party written notice that such party intends to terminate this Agreement one year from the date that such notice is received by the other party. Such termination shall thereupon be effective and this Agreement shall be terminated one year after receipt of notice by the other party; provided, that if any voters of either party vote to discontinue the keno lottery, then this Agreement shall terminate sixty (60) days after certification of such election, in accordance with Neb. Rev. Stat. § 9-627 (Reissue 1991). Any such notice must be served by sending the notice by certified mail addressed to the Clerk of the other party. Upon termination, all remaining proceeds shall be distributed to the parties in accordance with the provisions relating to the distribution as set forth in paragraph 6 hereof. (City Resolution No. A-75984; February 28, 1994; City Resolution No. A-75213; January 25, 1993. )