

**INTERLOCAL AGREEMENT
SOUTHEAST REGION GRANT PURCHASE**

THIS AGREEMENT is entered into by and between the City of Lincoln, Nebraska, hereinafter referred to as “the Grantee,” and Lancaster County, Nebraska, a political subdivision of the State of Nebraska, on behalf of the Southeast Region Planning, Exercise, and Training Group, hereinafter referred to as “the Region.”

WHEREAS, the Interlocal Cooperation Act, Neb. Rev. Stat. § 13-801 *et seq.* (Reissue 2012), permits units of local government in the State of Nebraska to cooperate with other localities on a basis of mutual advantage and thereby provide services in a manner that will best serve local communities;

WHEREAS, the Region includes the Counties of Cass, Gage, Fillmore, Jefferson, Johnson, Lancaster, Nemaha, Otoe, Pawnee, Richardson, Saline, Seward, Thayer, and York, and the participating cities and villages within said Counties;

WHEREAS, the Region is the recipient of federal Homeland Security Grant program grant funds through the Nebraska Emergency Management Agency (NEMA);

WHEREAS, the Region has appointed Lancaster County as Fiscal Agent and Grant Administrator for the Region;

WHEREAS, the City of Lincoln, Nebraska, is a participant in the Region who desires to utilize the Region’s grant funds for a purchase of emergency management equipment or services;

WHEREAS, this purchase has been approved by the Region’s Advisory Board;

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

1) Length. The length of this Agreement shall be from the date of execution until the sooner of a) termination or expiration of all the Region’s obligations to NEMA pursuant to the Homeland Security Grant Program that funds Grantee’s purchase or b) termination of this Agreement pursuant to the provisions of this Agreement.

2) Purpose. The purpose of this Agreement is to facilitate Grantee’s purchase using the Region’s federal grant funds while ensuring the Region’s compliance with the Region’s obligations as sub-recipient of federal grant funds received through NEMA from the Homeland Security Grant Program.

3) Grantee Responsibilities. Grantee will have the following duties and responsibilities:

- A. Grantee shall ensure that the Grantee’s purchase conforms to the Region’s specific grant project budget for the Grantee’s purchase, which purchase previously has been approved by the Region’s Advisory Board.

- B. Grantee shall utilize the City of Lincoln-Lancaster Purchasing Department as its Purchasing Agent for its purchase.
- C. In addition to complying with the federal procurement requirements contained in 2 CFR 200, Grantee also shall comply with the County Purchasing Act, Neb. Rev. Stat. § 23-3101 et seq., as amended, and as modified by applicable Lancaster County Resolutions, for making Grantee's purchase.
- D. Grantee shall negotiate any terms and conditions, complete any quote or purchase order, execute any contract, and accept any ongoing obligations related to the subject matter of the purchase, as necessary, in Grantee's own name, to consummate the purchase. All completed documentation of the transaction shall be delivered to the Purchasing Agent.
- E. Grantee shall cause all goods to be delivered to Grantee's own address on or before August 26, 2016.
- F. Within five (5) working days of Grantee's receipt of its purchase, but in no event later than August 26, 2016, Grantee shall submit all required supporting documentation to Lancaster County Emergency Management, which documentation shall include but not be limited to, as appropriate, payroll, time records, invoices, contracts, and vouchers evidencing in proper detail the nature and propriety of the charges, and proof of payment by Grantee to Grantee's vendor for Grantee's purchase;
- G. As a subrecipient of federal funds, Grantee shall comply with all applicable laws, regulations, and program guidance, including, but not limited to, the following:
 - i. Administrative Requirements
 - a. Office of Management & Budget (OMB) Circulars, which have been relocated to 2 CFR Part 215.
 - b. 44 CFR Part 13 - *Uniform Administrative Requirements for Grants & Cooperative Agreements to State and Local Governments*, which have been incorporated into 2 CFR 200 – *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.
 - c. *Methods of Procurement* contained in 2 CFR 200.320.
 - ii. Audit Requirements
 - a. OMB Circular A-133 -*Audits of States; Local Governments, and Non-Profit Organizations*, which have been incorporated into 2 CFR 200.501

- b. Grantee agrees to retain all grant records related to this purchase for three (3) years after the Region has been notified by NEMA that the applicable grant has been closed by DHS/NEMA.
- c. NEMA may perform periodic compliance monitoring on-site visits and/or desk reviews of the Region's members' performance of eligible activities, approved projects, fiscal records, and equipment. These reviews may include, without limitation: inspection of all grant related records and items, comparing actual sub-recipient activities to those approved in the sub-award application and subsequent modifications, if any, ensuring that advances have been disbursed in accordance with applicable guidelines, confirming compliance with grant assurance, information provided on performance reports and payment requests, needs and threat assessments & strategies, and planning, exercise & training activities. Grantee shall fully comply with any NEMA on-site visits and/or desk reviews.
- d. The Region must complete and submit a Biannual Strategy Implementation Report (BSIR) each January and July 15th until the end of the grant. The report must include a narrative summary on the progress of each project. Grantee agrees to supply any information required by the Region to complete the BSIR.

H. Grantee shall comply with the requirements of:

- i. Drug Free Workplace Act of 1988 (41 USC 701 et seq.)
- ii. Trafficking Victims Protection Act of 2000, as amended (22 USC 7104), located in 2CFR Part 175
- iii. Title I, II, and III of the Americans with Disabilities Act of 1990
- iv. Age Discrimination Act of 1973 (40 USC 6101 et seq.)
- v. Title IX of the Education Amendments of 1972 (44 CFR Part 19)
- vi. Rehabilitation Act of 1973 (29 USC 794)
- vii. Limited English Proficiency, Executive Order 13166n
- viii. Animal Welfare Act of 1966 (7 USC 2131 et seq.)
- ix. Clean Air Act of 1970 and Clean Water Act of 1977 (42 USC 7401), and Executive Order 11738

x. USA Patriot Act of 2001, which amends 18 USC 175-175C.

- I. Grantee agrees to cooperate with assessments, national evaluation efforts, and information or data collection requests from the Region, including but not limited to, the provision of any information required for the assessment or evaluation of any activities related to the project associated with the purchase facilitated by this Agreement.
- J. Grantee acknowledges that the Department of Homeland Security/Federal Emergency Management Agency (DHS/FEMA) reserves a royalty free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: (1) the copyright to any work developed under this Agreement; and (2) any rights of copyright to which Grantee purchases ownership with Federal support pursuant to this Agreement. Grantee agrees to consult with GPO regarding the allocation of any patent rights that arise from, or are purchased with, this funding.
- K. As a recipient of federal financial assistance through this Agreement, Grantee will comply with requirements to acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.
- L. To the extent that Grantee uses contractors or sub-contractors in connection with this Agreement, Grantee shall use small, minority, women owned, or disadvantaged business concerns and contractors or sub-contractors to the extent practicable.
- M. In order for the Region to maintain its own inventory for grant administration purposes, Grantee must maintain an updated inventory of equipment purchased through the Region. The approved *Inventory Template* is available at: www.nema.ne.gov/preparedness/grant-management.html.
- N. All communications projects involving towers and tower buildings cannot be ordered until the Environmental Planning and Historic Preservation (EHP) is approved by DHS/FEMA. NEMA will coordinate the approval process, and the Grantee agrees to provide all documents to the Region or NEMA as required.

4) The Region will have the following responsibilities:

- A. On behalf of the Region, the City of Lincoln-Lancaster County Emergency Management Department (Emergency Management) shall function as the primary point of contact for NEMA and other State and Federal entities with respect to grant funds allocated under this Agreement.

- B. On behalf of the Region, the City of Lincoln-Lancaster County Purchasing Department shall function as Grantee's Purchasing Agent for Grantee's purchase. Prior to making any purchase, the Purchasing Agent shall submit all documentation to the Director of Emergency Management for verification of compliance with Paragraph 3)C of this Agreement.
- C. Following approval of the sufficiency of the documents required by Paragraph 3)F of this Agreement by the Director of Emergency Management, the Region shall submit to NEMA the required supporting documentation received from Grantee.
- D. Subject to dispersal of grant funds from NEMA to the Region, the Region shall disperse and pay grant funds to Grantee to reimburse Grantee for Grantee's purchase, which purchase shall not exceed the amount of the Region's specific grant project budget for the Grantee's purchase previously approved by the Region's Advisory Board.

5) Consideration. The total cost of Grantee's purchase shall be no more than the amount authorized in the specific grant project budget for the Grantee's purchase. In exchange for Grantee's promises and obligations contained in this Agreement, the Region, upon NEMA's dispersal of grant funds to the Region in the amount of Grantee's purchase, agrees to pay Grantee for the cost of the purchase pursuant to the terms of this Agreement, but in no event shall payment exceed the amount authorized in the specific grant project budget for the Grantee's purchase.

6) Title to Equipment. Title to equipment costing \$5,000 or more, and acquired by the Grantee with funds provided under this Agreement, shall vest in Grantee. When the equipment is no longer needed by the Grantee, and the per unit fair market value is less than \$5,000, the Grantee may retain, sell, or dispose of the equipment with no further obligation to the Region or NEMA. If, on the other hand, the per unit fair market value is \$5,000 or more, then the Grantee must submit a written request to the Region for disposition instructions from NEMA.

7) Special EHP Provisions for Certain Funded Projects. Grantee shall not undertake any project having the potential to impact Environmental Planning and Historic Preservation (EHP) resources without the prior approval of DHS/FEMA, including, but not limited to: communications towers; physical security enhancements; new construction; and modifications to buildings, structures, and objects, that are fifty (50) years old or older, or as indicated by FEMA's Authorized Equipment List (AEL) list. Grantee must comply with all conditions placed on the project as the result of the EHP review. Any change to the approved project scope of work will require re-evaluation for compliance with the EHP requirements. If ground disturbing activities occur during project implementation, the Grantee must ensure monitoring of ground disturbance, and if any potential archeological resources are discovered, the Grantee will immediately cease construction in that area and notify the Region, FEMA, and the appropriate State Historic Preservation Office. Any construction activities that have been initiated without the necessary EHP review and approval will result in a non-compliance finding from NEMA and will not be eligible for DHS/FEMA funding through the Region.

8) Lack of Funding. The parties recognize that the consideration provided for in this agreement is based upon DHS/FEMA federal grant funds passed through the State of Nebraska. The Grantee understands and agrees that DHS/FEMA federal grant funds from NEMA are the sole source of funding for the Grantee's purchase pursuant to this Agreement, and the Region shall not provide funding to Grantee from the Lancaster County General Fund, or from any other Lancaster County fund. In the event that NEMA does not release grant funds to the Region for Grantee's purchase, this Agreement shall terminate with no further obligation between the parties.

9) Independent Contractor. It is the express intent of the parties that this Agreement shall not create an employer-employee relationship. Employees of the Grantee shall not be deemed to be employees of the County and employees of the Region shall not be deemed to be employees of the Grantee.

10) Assignment. Neither the Region nor the Grantee shall assign its duties and responsibilities under this Agreement without the express written permission of the other party to this agreement. Any assignment without the express written permission of the other party is absolutely void.

11) Hold Harmless. Each party agrees to indemnify and hold harmless, to the fullest extent allowed by law, the other party and its principals, officers, and employees from and against all claims, demands, suits, actions, payments, liabilities, judgments and expenses (including court-ordered attorneys' fees), arising out of or resulting from the acts or omissions of their principals, officers, or employees in the performance of this Agreement. Liability includes any claims, damages, losses, and expenses arising out of or resulting from performance of this Agreement that results in any claim for damage whatsoever including any bodily injury, civil rights liability, sickness, disease, or damage to or destruction of tangible property, including the loss of use resulting therefrom. Further, each party shall maintain a policy or policies of insurance (or a self-insurance program), sufficient in coverage and amount to pay any judgments or related expenses from or in conjunction with any such claims. Nothing in this Agreement shall require either party to indemnify or hold harmless the other party from liability for the negligent or wrongful acts or omissions of said other party or its principals, officers, or employees.

12) Subcontractors. The Grantee agrees to require any contractors or subcontractors, providing services under this Agreement, to indemnify and hold the Region harmless to the same extent and as provided in section 7, of this Agreement.

13) Severability. If any portion of this Agreement is held invalid, the remainder hereof shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

14) Equal Employment Opportunity. In connection with the carrying out of the activities provided herein, neither the Region nor the Grantee shall discriminate against any bidder, employee, applicant for employment, or any other person because of race, color, religion, sex, disability, national origin, age, marital status or receipt of public assistance. Both the Region and the Grantee agree to comply with all Federal Civil Rights laws, to include Title VI of the Civil Rights Act of 1964, as amended.

15) Termination. This Agreement may be terminated at any time by either party giving thirty (30) days written notice. If terminated by either party after payment of grant funds has been made by the Region pursuant to this Agreement, the following provisions shall survive termination, and shall continue until termination of the Homeland Security Grant Program to the Region: 3)G, 3)H, 3)I, 3)J, 3)K, 3)L, 3)M, 3)N, 4)B, 6), 7), 9), 10), 11), 12), 14), 15), and 16).

16) Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein and merges all prior discussions between them. It shall not be modified except by written agreement dated subsequent to the date of this Agreement and signed by all parties.

EXECUTED this ____ day of _____, 2016, by the Region.

By: _____
Chair
Lancaster County Board of
Commissioners
On behalf of the Southeast Region Planning,
Exercise, and Training Group

APPROVED AS TO FORM:
This ____ day of _____, 2016.

Deputy County Attorney for JOE KELLY, County Attorney

EXECUTED this ____ day of _____, 2016, by Grantee.

By: _____
Chris Beutler, Mayor
City of Lincoln, Nebraska,
a municipal corporation

APPROVED AS TO FORM:
This ____ day of _____, 2016.

City Attorney