

*Interlocal Agreement
Correctional Facilities*

This Agreement is entered into by and between the County of Lancaster, Nebraska, a political subdivision of the State of Nebraska, hereinafter referred to as “the County” and the Lancaster County Correctional Facility Joint Public Agency, a political subdivision of the State of Nebraska, hereinafter referred to as “the Agency”, and the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as “the City”.

WHEREAS, *Neb. Rev. Stat. § 15-264* (Reissue 1997), provides that any city shall have the right to contract with any other governmental subdivision or agency, whether local, state or federal for the keeping of prisoners, either in a facility of the city or in a facility of the other governmental subdivision or agency. Payment shall be made as provided in any such agreement; and

WHEREAS, the Agency will construct and own a new jail facility in the City of Lincoln, and will authorize the County to operate and maintain such facility upon completion; and

WHEREAS, the County currently operates and maintains jail facilities located in the City of Lincoln, Nebraska; and

WHEREAS, the County will operate and maintain the new jail facility owned by the Agency upon the completion of the new jail facility; and

WHEREAS, the County operates and administers a Community Corrections program; and

WHEREAS, the County, through the Lancaster County Community Corrections Department, is capable of electronically monitoring and supervision of individuals placed on house arrest, drug court, community service, or pre-trial release by the court; and

WHEREAS, the County and City are agreeable to housing City offenders in the County Correctional Facilities; and

WHEREAS, the County and the City are agreeable to have Lancaster County Community Corrections electronically monitor and supervise City Offenders that are placed on house arrest, drug court, community service, or pre-trial release by the court; and

WHEREAS, such an agreement is authorized by the Interlocal Cooperation Act, *Neb. Rev. Stat. §§ 13-801 to 13-807* (Reissue 1997), and by *Neb. Rev. Stat. § 47-306* (Reissue 2004).

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. **Corrections Administration.** The administration of all adult intake and correctional facilities, hereinafter collectively referred to as “Correctional Facilities” within the County shall be under the jurisdiction of the Lancaster County Board of Commissioners in its capacity as the Board of Corrections. Such Correctional Facilities shall be administered through the Department of Corrections. The administrative officer of the Department shall be the Director of Corrections who shall be qualified by education, training, and experience to perform the duties of such position and shall be appointed by the

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Board of Corrections. The Director of Corrections shall report to the Lancaster County Board of Corrections and shall be subject to dismissal by the Lancaster County Board of Commissioners in its capacity as the Board of Corrections.

2. Community Corrections Administration. The administration of all electronic monitoring and supervision of adults placed on house arrest, drug court, community service, or pre-trial release by the court within the County shall be under the jurisdiction of the Lancaster County Board of Commissioners. Such electronic monitoring and supervision of adults placed on house arrest, drug court, community service, or pre-trial release shall be administered through the Lancaster County Community Corrections Department. The administrative officer of the Community Corrections Department shall be the Director of Community Corrections who shall be qualified by education, training, and experience to perform the duties of such position and shall be appointed by the Lancaster County Board of Commissioners. The Director of Community Corrections shall report to, and be subject to dismissal by, the Lancaster County Board of Commissioners.

3. Services to be Provided by the County to the City. The County shall:

(a) Assume the safekeeping, care, and sustenance, including necessary medical treatment, of the City offenders held in the Correctional Facilities, pursuant to the City's lawful authority. The parties agree that the City shall be responsible for the cost of medical services, (other than routine, on-site medical services), necessitated by injuries or wounds suffered during the course of apprehension or arrest of any offender by the Lincoln Police Department, in compliance with applicable state law. The parties further agree that on-going and/or follow-up medical treatment required as a result of injuries or wounds sustained during arrest or apprehension by the Lincoln Police Department, or any complications arising therefrom, shall remain the direct responsibility of the City. The City acknowledges and agrees that such medical costs shall be billed directly to the City by the medical treatment provider performing or supplying medical services necessitated by injuries or wounds suffered during the course of apprehension or arrest of any offender by the Lincoln Police Department or for any on-going and/or follow-up medical treatment required as a result of such injuries or wounds. In the event the County receives any bills from a medical service provider for treatment of injuries or wounds sustained during the arrest or apprehension of said City Offender, or for followup medical treatment required as a result of such injuries or wounds, the County shall return said bill to the medical service provider for direct billing to the City. At the time said bill is returned, the County shall forward a copy of the bill and any information returned to said provider to the Lincoln Police Department, Attn: Accounting. Medical costs billed to the City pursuant to this provision shall not be included in the consideration provided in paragraph 5 hereinafter.

(b) Assume the electronic monitoring and supervision of City Offenders that are placed on house arrest, drug court, community service, or pre-trial release by the court. The parties agree that the County shall be responsible for:

(1) Monitoring, drug testing and supervision of City Offenders placed on house arrest, drug court, community service, or pre-trial release by the court; and

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(2) Providing electronic monitoring equipment and staff to monitor, test and supervise City Offenders placed on house arrest, drug court, community service, or pre-trial release by the court.

(c) Transport City offenders held in Correctional Facilities to all areas outside the secure Correctional Facilities, including transfer to all court appearances, emergency and routine medical, optical, and dental treatment, and other authorized facilities within the City limits.

(d) Manage the Correctional Facilities in accordance with such rules as may be adopted from time to time by the Nebraska Jail Standards and the District Court of Lancaster County, Nebraska, in accordance with *Neb. Rev. Stat* § 47-101 and § 47-201 (Reissue 2004). Be responsible for the administration of the Correctional Facilities so as to keep City offenders under proper discipline and control.

(e) Maintain the Correctional Facilities in a clean and sanitary condition. City offenders shall be provided with adequate and wholesome food. Juveniles shall be segregated from adults, and males and females shall be properly housed. City offenders shall not be allowed special privileges or improper liberties, nor will they be subject to corporal punishment, cruel or inhumane treatment, or abuse. City offenders who violate the rules of the Correctional Facilities may be disciplined as appropriate, in the same manner and to the same extent as County offenders. No offenders shall be discriminated against because of race, color, disability, religion, sex, age, or national origin, in any manner relating to his or her custody.

(f) Ensure that mail privileges in the Correctional Facilities will be the same for City and County offenders.

(g) Protect and accurately account for all personal effects and belongings of the City offenders held in the Correctional Facilities.

(h) Employ or utilize City offenders to the same extent and in the same manner as County offenders.

(i) Permit proper City law enforcement officials to see all City offenders in custody of Correctional Facilities.

The Director of Corrections may make such further rules and regulations, subject to approval by the Board of Corrections, as will assist in carrying out of the terms of this Agreement, provided that no such rules or regulation violates the terms of this Agreement or any laws of the State of Nebraska.

The Director of Community Corrections may make such further rules and regulations as will assist in carrying out of the terms of this Agreement, provided that no such rules or regulation violates the terms of this Agreement or any laws of the State of Nebraska.

4. Definition of City Offenders. For purposes of this Agreement, a person shall constitute a City offender if:

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- (a) The arrest of such offender is made by an officer of the Lincoln Police Department and the offender is charged with a violation or violations of the Lincoln Municipal Code; or
- (b) The offender is sentenced to the Corrections Department by any court to satisfy a sentence (consisting of a term of days or fine or both) for a violation or violations of the Lincoln Municipal Code; or
- (c) The offender is sentenced to or placed on house arrest, drug court, community service, or pre-trial release for a violation or violations of the Lincoln Municipal Code.

If such arrest or sentence is based upon a violation or violations of the Nebraska State Statutes, in addition to the Lincoln Municipal Code, the offender will be considered a County offender. If the offender was originally arrested for or charged with a violation or violations of the Nebraska State Statutes, but such charges are thereafter filed as or amended to charges under the Lincoln Municipal Code, then such offender shall thereafter be considered a City offender.

5. Funding; Budget Review. In consideration of the County's safe-keeping, care, sustenance, and transport of City Offenders held in the Correctional Facilities and in further consideration of Lancaster County Community Corrections electronically monitoring and supervising City Offenders that are placed on house arrest, drug court, community service, or pre-trial release by the court, the City shall:

(a) Enter into a Joint Public Agency Agreement with the County creating the Lancaster County Correctional Facility Joint Public Agency (the "Agency"), a copy of which is attached hereto as Attachment "A"

(b) Irrevocably allocate and assign to the Agency, the City's authority to cause the levy of taxes within the taxing district of the City, not to exceed \$3,500,000, beginning in the year 2008 for collection in 2009, for the purpose of the Agency paying the costs of constructing, equipping and furnishing the Correctional Facilities pursuant to Section 15-202, Reissue Revised Statutes of Nebraska, as amended, in an amount which, when added to the Lancaster County levy, will be sufficient to pay the principal or redemption price of and interest on the Agency Bonds when and as the same become due, solely for the purpose of paying the principal or redemption price of and interest on the Agency Bonds. The City's authority to cause the levy of taxes shall be irrevocably allocated and assigned for the period beginning September 15, 2008 and ending on the date upon which all of the bonds of the Agency, as may be issued for the purpose of the Agency acquiring land for, and constructing, equipping and furnishing Correctional Facilities, are no longer deemed to be outstanding and unpaid pursuant to the Agency resolution or resolutions pursuant to which they are issued.

The County hereby agrees that the City shall be afforded an opportunity to review the County's proposed budget for the Department of Corrections and Community Corrections Department each year. Recommendations by the City shall be taken into consideration before final approval of the budget.

6. Personal Property Acquired. Personal property for the operation of the Department of Corrections shall be supplied as needed from the Corrections Department of the County.

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7. **Possession and Control of the Premises.** The parties acknowledge and agree that the City shall have no possessory interest in, nor control of the new Lancaster County Correctional Facility site, generally located at S.W. 40th Street and West O Street, during the time which the acquisition of land, and the construction, equipping and furnishing of such facility takes place. During the period described in this paragraph, the County shall indemnify, defend, save, and hold harmless the City and the Agency from any and all claims, losses, damages, and expenses, including attorney's fees, that results in any bodily injury, sickness, disease, death, or injury to or destruction of tangible property, arising out of the acts associated with the acquisition of land, construction, equipping, and furnishing such facility, caused in whole or in part by the County, its architect, contractor, subcontractor, or any person employed by any of them or anyone for whose acts any of them may be liable. Additionally, during the period described in this paragraph, the Agency shall indemnify, defend, save and hold harmless the City and the County from any and all claims, losses, damages, and expenses, including attorney's fees, that results in any bodily injury, sickness, disease, death, or injury to or destruction of tangible property, arising out of the acts associated with the acquisition of land, construction, equipping, and furnishing such facility, caused in whole or in part by the Agency, its architect, contractor, subcontractor, or any person employed by any of them or anyone for whose acts any of them may be liable.

The parties further acknowledge and agree that the City shall have no possessory interest in, nor control of the Lancaster County Facility after the acquisition of land and construction, equipping and furnishing of said facility is completed. The Agency agrees to obtain insurance, naming the City and the County as additional insured, to fulfill the Agency's obligations as set forth in paragraphs 7 and 8 of this Agreement.

8. **Liability.** Upon operation of the Facility by the County, the County shall indemnify, defend, save and hold harmless the City and the Agency from all losses, claims, and damages arising out of the intentional, wrongful, and negligent acts and omissions of the County, and any agents or employees thereof, in the performance of the Agreement. Likewise, the City shall indemnify, defend, save and hold harmless the Agency and the County from all losses, claims, and damages arising out of the intentional, wrongful, and negligent acts and omissions of the City, its agents, or employees in the performance of this Agreement. Additionally, the Agency shall indemnify, defend, save and hold harmless the City and the County from all losses, claims, and damages arising out of the intentional, wrongful, and negligent acts and omissions of the Agency, and any agents or employees thereof, in the performance of the Agreement. It is understood and agreed, however, that liability resulting from the violation of the civil rights of City Offenders, arising under any State or Federal right, privilege, immunity, regulation, or law, caused by the act(s) of any individual, shall be the responsibility of that individual, and when provided by law, the party by which the individual was employed at the time of said act(s).

9. **Review of Agreement.** The County and City shall form a Jail Interlocal Monitoring Committee (Committee). The Committee shall meet in January of each year and shall review this Agreement to evaluate its effectiveness. The review shall include, but not be limited to, changes in days served and percentages of days in relationship to total days served; changes in legislation or pending legislation; changes in factors in the daily housing costs; the financial impact of the transport function; and payment of Lancaster County Correctional Facility Joint Public Agency Bonds. At this time, a projection will be made of the actualized daily housing costs. The Committee shall prepare an annual report addressing

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the above mentioned subjects. The annual report shall be submitted to the Lincoln City Council and Lancaster County Board of Commissioners.

10. Agreement Term and Termination. This Agreement shall commence on July 1, 2008, and shall continue for a period ending on the date upon which all of the bonds of the Lancaster County Correctional Facility Joint Public Agency, as may be issued for the purpose of acquiring land for, and constructing, equipping and furnishing Correctional Facilities, are no longer deemed to be outstanding and unpaid pursuant to the Agency resolution or resolutions pursuant to which they are issued.

Each party shall provide the other party with written notice of its intention to re-negotiate or terminate the agreement at least forty-five (45) days prior to date upon which all of the bonds of the Lancaster County Correctional Facility Joint Public Agency, as may be issued for the purpose of acquiring land for, and constructing, equipping and furnishing Correctional Facilities, are no longer deemed to be outstanding and unpaid. If either party gives notice to the other of its intention to re-negotiate, the agreement shall terminate on the date the Lancaster County Correctional Facility Joint Public Agency bonds are no longer deemed to be outstanding and unpaid unless the agreement has been successfully re-negotiated by that date.

11. 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.

12. The validity, construction, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska.

13. This Agreement contains all the terms between the parties and may be amended only in writing signed by both parties.

14. This Agreement supercedes and replaces the previous Interlocal Agreement executed by the County on May 24, 2005, under County Contract No. C-050274 and executed by the City on May 12, 2005, under City Resolution No. A-83316.

IN WITNESS WHEREOF, each of the parties have caused this Agreement to be executed in duplicate by the respective duly authorized officers as indicated below. (City Resolution No. A-85114, adopted Nov. 3, 2008: approved by Mayor Nov. 5, 2008: approved by County, Oct. 28, 2008: approved by the Lancaster County Correctional Facility Joint Public Agency, Dec. 30, 2008. Prior City Resolutions A-83316 (2005), A-77968 (1997)).