

**CONTRACT DOCUMENTS**

***City of Lincoln  
Nebraska***

**Request for Proposal  
Production of "Living Well" Magazine  
Bid No. 12-118**

**News Link  
2201 Winthrop Road  
Lincoln, NE 68502  
402-475-6397**

**City of Lincoln, Nebraska**  
**Contract Agreement**

THIS CONTRACT, made and entered into this 4 day of February 2013, by and between News Link, 2201 Winthrop Road, Lincoln, NE 68502 hereinafter called Contractor, and the City of Lincoln, Nebraska, a municipal corporation, hereinafter called the City.

WHEREAS, the City has caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published an advertisement for and in connection with said Work, to-wit:

**Request for Proposal for Production of "Living Well" Magazine, Bid No. 12-118**

and,

WHEREAS, the Contractor, in response to such advertisement, has submitted to the City, in the manner and at the time specified, a sealed Proposal/Supplier Response in accordance with the terms of said advertisement; and,

WHEREAS, the City, in the manner prescribed by law has publicly opened, read aloud, examined, and canvassed the Proposals/Supplier Responses submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible bidder for the said Work for the sum or sums named in the Contractor's Proposal/Supplier Response, a copy thereof being attached to and made a part of this Contract;

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the mutual covenants herein contained, the Contractor and the City have agreed and hereby agree as follows:

1. The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents; and (d) execute and complete all Work included in and covered by the City's award of this Contract to the Contractor, such award being based on the acceptance by the City of the Contractor's Proposal, or part thereof, as follows:

**Agreement to full proposal, and "Attachment A - Cost Proposal/Price List" Best and Final Offer.**

2. The City agrees to pay to the Contractor for the performance of the Work embraced in this Contract, the Contractor agrees to accept as full compensation therefore, the following sums and prices for all Work covered by and included in the Contract award and designated above, payment thereof to be made in the manner provided by the City:

**The City will pay for products/services, according to "Attachment A - Cost Proposal/Price List" Best and Final Offer, a copy thereof being attached to and made a part of this Contract for an approximate quarterly cost of \$5,064.37 (\$20,257.48 annually).**

3. **EQUAL EMPLOYMENT OPPORTUNITY:** In connection with the carrying out of this project, the Contractor shall not discriminate against any employee, applicant for employment, or any other person because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

4. E-VERIFY: In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section.
5. Termination. This Contract may be terminated by the following:
  - 5.1) Termination for Convenience. Either party may terminate this Contract upon thirty (30) days written notice to the other party for any reason without penalty.
  - 5.2) Termination for Cause. The City may terminate the Contract for cause if the Contractor:
    - 5.2.1) Refuses or fails to supply the proper labor, materials and equipment necessary to provide services and/or commodities.
    - 5.2.2) Disregards Federal, State or local laws, ordinances, regulations, resolutions or orders.
    - 5.2.3) Otherwise commits a substantial breach or default of any provision of the Contract Document. In the event of a substantial breach or default the City will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the contract shall terminate.
6. INDEPENDENT CONTRACTOR: It is the express intent of the parties that this contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.
7. Contract Term. This Contract shall be effective upon execution by both parties. The term of the Contract shall be a two (2) year term, with option to renew for an additional two (2) year term. The work on the Summer issue shall begin on or around April 15, 2013. The completion shall be in accordance with the established quarterly production deadlines.
8. The Contract Documents comprise the Contract, and consist of the following:
  1. Contract Agreements
  2. Accepted Proposal
  3. Attachment A - Best and Final Offer
  4. Addendum No. 1
  5. Special Provisions
  6. Specifications
  7. Performance Bond
  8. Instructions to Bidders
  9. Insurance Requirements
  10. Sales Tax Exemption Forms 13

These Contract Agreements, together with the other Contract Documents herein above mentioned, form this Contract, and they are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and the City hereby agree that all the terms and conditions of this Contract shall by these presents be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and the City do hereby execute this contract.

**EXECUTION BY THE CITY OF LINCOLN, NEBRASKA**

**ATTEST:**

CITY OF LINCOLN, NEBRASKA

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Chris Beutler, Mayor

**Approved by:**

Resolution Order No. \_\_\_\_\_

Dated \_\_\_\_\_

**EXECUTION BY CONTRACTOR**

**IF A CORPORATION:**

**ATTEST:**

\_\_\_\_\_  
*News Link Incorporated*  
Name of Corporation

\_\_\_\_\_  
*2201 Winthrop Rd Lincoln NE 68502*  
Address

\_\_\_\_\_  
(SEAL)  
Secretary

By: \_\_\_\_\_  
*David Zelnio*  
Duly Authorized Official

\_\_\_\_\_  
*vice president*  
Legal Title of Official

**IF OTHER TYPE OF ORGANIZATION:**

\_\_\_\_\_  
Name of Organization

\_\_\_\_\_  
Type of Organization

\_\_\_\_\_  
Address

By: \_\_\_\_\_

Member

By: \_\_\_\_\_

Member

**IF AN INDIVIDUAL:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature

## COMMENTARY TO ACCOMPANY BONDS

### A. GENERAL INFORMATION

Bonds are required by statutes for public work in many jurisdictions and are widely used for other projects as well.

The Performance Bond is an instrument that is used to assure the availability of funds to complete the project.

The objective underlying the re-writing of bond forms is to make it more understandable to provide guidance to users. The intention was to define the rights and responsibilities of the parties, without changing the traditional rights and responsibilities that have been decided by the courts. The new bond form provides helpful guidance regarding time periods for various notices and actions and clarify the extent of available remedies.

The concept of pre-default meeting has been incorporated into the Performance Bond. All of the participants favored early and informal resolution of the problems that may precipitate a default, but some Surety companies were reluctant to participate in pre-default settings absent specific authorization in the bond form.

The responsibilities of the Owner and the options available to the Surety when a default occurs are set forth in the Performance Bond.

Normally the amount of the bond is 100 percent of the contract amount.

### B. COMPLETING THE FORMS

Bonds have important legal consequences; consultation with an attorney and a bond specialist is encouraged with respect to federal, state and local laws applicable to bonds and with respect to completing or modifying the bond forms.

Bond forms have a similar format and the information to be filled in is ordinarily the same on both bonds. If modification is necessary, the modifications may be different.

The bond form is prepared for execution by the Contractor and the Surety. Evidence of authority to bind the Surety is usually provided in the form of a power of attorney designating the agent who is authorized to sign on behalf of the Surety. The power of attorney should be filed with the signed bond.

Preferably the bond date should be the same date as the contract, but in no case should the bond date precede the date of the contract.

PERFORMANCE BOND

Bond No. 069219

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

**CONTRACTOR (Name and Address):**

**News Link  
2201 Winthrop Road  
Lincoln, NE 68502**

**SURETY (Name and Principal  
Place of Business):**

Old Republic Surety Company  
PO Box 1976  
Des Moines, IA 50305

**Owner:**

City of Lincoln  
555 South 10th St.  
Lincoln, NE 68508

**CONTRACT**

**Date:** February 4, 2013  
**Amount:** \$20,257.48

**Description (Name and Location):**

**For all labor, material and equipment necessary for**

**BOND**

**Date:** April 15, 2013 To April 15, 3014. The Surety has the option to renew annually.  
**Amount:** \$ 20,257.48  
**Modifications to this Bond Form:** None

**CONTRACTOR AS PRINCIPAL**

**Company:** (Corp. Seal)

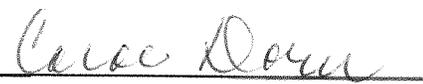
**News Link  
2201 Winthrop Road  
Lincoln, NE 68502**

**SURETY**

**Company:** Old Republic Surety Company  
PO Box 1976  
Des Moines, IA 50305



**Signature:**   
**Name and Title:** David Zelnio, Vice President

**Signature:**   
**Name and Title:** Carol Dorn, Attorney-in-Fact

EJCDC NO. 1910-28a (1984 Edition)  
Prepared through the joint efforts of The Surety Assoc. of America, Engineers' Joint Contract Documents Committee, The Associated General Contractors of America, and the American Institute of Architects.

1. The Contractor and the Surety, jointly and severally, bind themselves their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Contract, which is incorporated herein by reference.
2. If the Contractor performs the Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.
3. If there is no Owner Default, the Surety's obligation under this Bond shall arise after:
  - 3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below, that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default and
  - 3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Sub-paragraph 3.1; and
  - 3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Contract or to a contractor selected to perform the Contract in accordance with the terms of the contract with the Owner.
4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
  - 4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Contract, or
  - 4.2 Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or
  - 4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default, or
  - 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
    1. After investigation, determine the amount for which it may be liable to the Owner and as soon as practicable after the amount is determined tender payment therefore to the Owner; or
    2. Deny liability in whole or in part and notify the Owner citing reasons therefore.
5. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4 and the Owner refuses payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
6. After the Owner has terminated the Contractor's right to complete the Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, the Surety is obligated without duplication for:
  - 6.1 The responsibilities of the Contractor for correction of defective work and completion of the Contract;
  - 6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and
  - 6.3 Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of the Contractor.
7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.
8. The Surety hereby waives notice of any change, including changes of time, to the Contract or to related sub-contracts, purchase orders and other obligations.
9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
10. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.
11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the contract was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
12. Definitions.
  - 12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Contract.
  - 12.2 Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
  - 12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.
  - 12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.

## POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That OLD REPUBLIC SURETY COMPANY, a Wisconsin stock insurance corporation, does make, constitute and appoint:

JEFF GREENWALD, CAROL DORN, ROHN LOYD, OF LINCOLN, NE

its true and lawful Attorney(s)-in-Fact, with full power and authority, not exceeding \$20,000,000, for and on behalf of the company as surety, to execute and deliver and affix the seal of the company thereto (if a seal is required), bonds, undertakings, recognizances or other written obligations in the nature thereof, (other than bail bonds, bank depository bonds, mortgage deficiency bonds, mortgage guaranty bonds, guaranties of installment paper and note guaranty bonds, self-insurance workers compensation bonds guaranteeing payment of benefits, asbestos abatement contract bonds, waste management bonds, hazardous waste remediation bonds or black lung bonds), as follows:

ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED AN AGGREGATE OF FIVE HUNDRED THOUSAND DOLLARS(\$500,000)----- FOR ANY SINGLE OBLIGATION, REGARDLESS OF THE NUMBER OF INSTRUMENTS ISSUED FOR THE OBLIGATION.

and to bind OLD REPUBLIC SURETY COMPANY thereby, and all of the acts of said Attorneys-in-Fact, pursuant to these presents, are ratified and confirmed. This document is not valid unless printed on colored background and is multi-colored. This appointment is made under and by authority of the board of directors at a special meeting held on February 18, 1982. This Power of Attorney is signed and sealed by facsimile under and by the authority of the following resolutions adopted by the board of directors of the OLD REPUBLIC SURETY COMPANY on February 18, 1982.

RESOLVED that, the president, any vice-president, or assistant vice president, in conjunction with the secretary or any assistant secretary, may appoint attorneys-in-fact or agents with authority as defined or limited in the instrument evidencing the appointment in each case, for and on behalf of the company to execute and deliver and affix the seal of the company to bonds, undertakings, recognizances, and suretyship obligations of all kinds; and said officers may remove any such attorney-in-fact or agent and revoke any Power of Attorney previously granted to such person.

RESOLVED FURTHER, that any bond, undertaking, recognizance, or suretyship obligation shall be valid and binding upon the Company

- (i) when signed by the president, any vice president or assistant vice president, and attested and sealed (if a seal be required) by any secretary or assistant secretary; or
- (ii) when signed by the president, any vice president or assistant vice president, secretary or assistant secretary, and countersigned and sealed (if a seal be required) by a duly authorized attorney-in-fact or agent; or
- (iii) when duly executed and sealed (if a seal be required) by one or more attorneys-in-fact or agents pursuant to and within the limits of the authority evidenced by the Power of Attorney issued by the company to such person or persons.

RESOLVED FURTHER, that the signature of any authorized officer and the seal of the company may be affixed by facsimile to any Power of Attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the company; and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, OLD REPUBLIC SURETY COMPANY has caused these presents to be signed by its proper officer, and its corporate seal to be affixed this 28TH day of AUGUST, 2012.

  
Phyllis M. Johnson  
Assistant Secretary

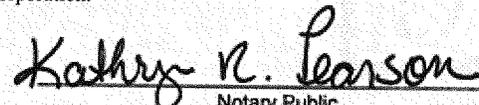


OLD REPUBLIC SURETY COMPANY  
  
Gerald C. Leach  
President

STATE OF WISCONSIN, COUNTY OF WAUKESHA-SS

On this 28TH day of AUGUST, 2012, personally came before me, Gerald C. Leach and Phyllis M. Johnson, to me known to be the individuals and officers of the OLD REPUBLIC SURETY COMPANY who executed the above instrument, and they each acknowledged the execution of the same, and being by me duly sworn, did severally depose and say; that they are the said officers of the corporation aforesaid, and that the seal affixed to the above instrument is the seal of the corporation, and that said corporate seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority of the board of directors of said corporation.



  
Kathryn R. Pearson  
Notary Public  
My commission expires: 9/28/2014

CERTIFICATE

I, the undersigned, assistant secretary of the OLD REPUBLIC SURETY COMPANY, a Wisconsin corporation, CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolutions of the board of directors set forth in the Power of Attorney, are now in force.

40-0594



Signed and sealed at the City of Brookfield, WI this 5th day of February, 2013

  
Jane E. Cherny  
Assistant Secretary

INSPRO, INC.

THIS DOCUMENT HAS A COLORED BACKGROUND AND IS MULTICOLORED ON THE FACE. THE COMPANY LOGO APPEARS ON THE BACK OF THIS DOCUMENT AS A WATERMARK. IF THESE FEATURES ARE ABSENT, THIS DOCUMENT IS VOID.

**Certified Statement Pursuant to Neb. Rev. Stat. § 77-1323**

§ 77-1323 Every person, partnership, limited liability company, association, or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall furnish a certified statement to be attached to the contract that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

Pursuant to Neb. Rev. Stat. § 77-1323, I, David Zelnio, do hereby certify that all equipment to be used on City Project/Bid No. 12-118, except that equipment acquired since the assessment date, has been assessed for taxation for the current year, in Lancaster County, Nebraska.

DATED this 4th day of February, 2013.

By: *David Zelnio*  
Title: *Vice President*

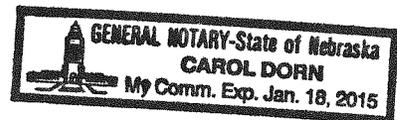
STATE OF NEBRASKA )  
 )ss.  
COUNTY OF *Lancaster* )

On *Feb. 4*, 2013, before me, the undersigned Notary Public duly commissioned for and qualified in said County, personally came *David Zelnio*, to me known to be the identical person, whose name is affixed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed.

Witness my hand and notarial seal the day and year last above written.

*Carol Dorn*  
Notary Public

(SEAL)



**Specifications  
for  
Production of "Living Well" Magazine  
RFP 12-118**

**1. GENERAL INFORMATION**

- 1.1 The City of Lincoln, Agency on Aging (hereinafter referred to as "Aging Partners") requests proposals from qualified companies to provide production services for their quarterly publication of "Living Well Magazine" to cover up to eight (8) Nebraska counties for news gathering, copywriting, photography, graphic design/layout, general coordination, proofing and project management functions.
- 1.2 It is the intent to select a company based on qualifications, recommended approach, and practical application which best accomplish the objectives while incorporating innovative and cost effective methods.
- 1.3 The winning vendor of this RFP must coordinate with Aging Partners and the winning vendor for the Printing/Mailing (RFP 12-119).
- 1.4 Vendors must submit an electronic response on the City/County Purchasing E-bid System and a written proposal which will be received in the City of Lincoln/Lancaster County Purchasing Office prior to the date and time listed in the RFP.
  - 1.4.1 Proposals received after the specified day and hour will be considered null and void and will not be accepted.
  - 1.4.2 Five (5) copies of each proposal should be submitted to the attention of Suzanne Siemer, Assistant Purchasing Agent for the City of Lincoln/Lancaster County.
  - 1.4.3 Proposals shall be submitted in a sealed envelope clearly indicating the "Living Well Magazine **RFP 12-118**" and your company name.
- 1.5 Proposers must also complete the electronic portion of this proposal on the E-bid system.
  - 1.5.1 In order for this electronic notification to submit, enter a zero (0) for your response in this line item.
  - 1.5.2 The electronic response of this proposal will include information such as addendums and acknowledgment of requirements.
  - 1.5.3 The electronic response will be printed and made a part of the proposal.
- 1.6 All inquiries regarding these specifications shall be directed via e-mail or faxed written request to Suzanne Siemer, Asst. Purchasing Agent ([ssiemer@lincoln.ne.gov](mailto:ssiemer@lincoln.ne.gov)) or fax: (402) 441-6513.
  - 1.6.1 These inquiries and/or responses shall be distributed to prospective bidders electronically as an addenda.
  - 1.6.2 Purchasing shall reply to written inquiries received within five (5) calendar days of Proposal opening.
  - 1.6.3 No direct contact is allowed between Vendor and other City staff throughout the bid process.
    - 1.6.3.1 Failure to comply with this directive may result in Vendor proposal being rejected.
- 1.7 Aging Partners is utilizing funding from the Federal Government for the purchase of this service.
  - 1.7.1 Vendors must read, acknowledge and follow the requirements of the Federal guidelines attached to the RFP.
  - 1.7.2 Failure to agree to the Federal Requirements or return certifications as required will result in the rejection of RFP.
- 1.8 Vendor to designate and identify in the written proposal response the name of the person who will be responsible for Account Management of this quarterly publication.
- 1.9 Upon contract execution by both parties, the contract shall be in effect for a period of two (2) years with the option to renew for one (1) additional two (2) year period.
- 1.10 Aging Partners' Editor and main point of contact will be Zoe Olson at (402) 441-6156, fax (402) 441-7160, [zolson@lincoln.ne.gov](mailto:zolson@lincoln.ne.gov)

- 1.11 If Vendor has any deviations to the minimum specifications outlined herein, they must attach a written explanation for each in the Response Attachment section of the E-bid.
- 1.12 Proposal pricing (Attachment A - Cost Proposal/Price List) shall provide a total price "Per Quarterly Issue" for a **40** page magazine and show a breakdown of ALL associated costs including, but not limited to, news gathering, copywriting, photography, design, all travel and travel expenses, general coordination, account management and shall also list "optional pricing" as indicated below.
  - 1.12.1 Pricing shall be based on a "Per Quarterly Issue" for the specifications stated herein.
  - 1.12.2 Vendors are to complete "Attachment A - Cost Proposal/Price List" and attach as a part of the written Proposal response (see Attachment section of the E-bid).
  - 1.12.3 "Optional pricing" for increasing the page count shall also be included in "Attachment A - Cost Proposal/Price List" (this will not be a part of the evaluation).
    - 1.12.3.1 All magazine specifications would remain the same as stated herein, but adding an additional 4 to 8 pages of design and content.
  - 1.12.4 Pricing will be an evaluation factor.
  - 1.12.5 Provide with the Proposal response, samples of publications which your company has produced that are similar in specifications/work as required herein.
  - 1.12.6 In order to be considered for an award to provide all services outlined in RFP 12-118 and 12-119, Vendor must submit proposals for each and meet requirements of both RFP's respectively.
- 1.13 The Vendor and/or subcontractor shall not commence work under this agreement until the company has obtained all insurance required in the attached "Insurance Clause" to be used for all City Contracts," and such insurance has been approved by the City Attorney.
- 1.14 A Performance Bond or an Irrevocable Letter of Credit in the amount of \$20,000.00 is required upon execution of the contract.
- 1.15 If the Vendor causes delays in production which jeopardize the scheduled mailing dates, it will result in Liquidated Damages being charged to the Vendor in the amount of \$100.00 per day until production has been completed.

## **2. MAGAZINE SPECIFICATIONS**

- 2.1 Periodical Magazine averaging approximately 7 ½ pages of Advertisements.
- 2.2 40 Page Self Cover
  - 2.2.1 Vendor shall also include separate "Optional Pricing" for Aging Partners to increase the page count to a 44 pg or 48 pg self cover.
- 2.3 Finish Size - 8.25 x 10.25
- 2.4 Ink - 4 Color Process on all Pages
- 2.5 Saddle Stitch
- 2.6 Full Bleeds
- 2.7 Stock - White 60lb #3 Matte Book
- 2.8 Furnish artwork to Printer's specifications

## **3. GENERAL PRODUCTION INFORMATION**

- 3.1 Quarterly Magazine mail dates:
  - 3.1.1 Winter Issue - January 1
  - 3.1.2 Spring Issue - April 1
  - 3.1.3 Summer Issue - July 1
  - 3.1.4 Fall Issue - October 1
- 3.2 First production for this contract will be the "**Summer**" 2013 issue.
- 3.3 If the above mail dates should fall on a holiday or weekend, then the mailing date will be the first business day prior to the dates stated in 3.1.1 through 3.1.4.
- 3.4 Vendors shall refer to their experience on producing similar type publications and indicate in the Attribute section of the e-bid the standard number of working days typically required to complete this type of project.

- 3.4.1 Include in your Proposal response an outline of how these working days are broken down for each step of the process.
- 3.5 Vendor must maintain strict adherence to meeting production deadlines for the quarterly mailing dates.
  - 3.5.1 Vendor must keep Aging Partners and the Printing/Mailing vendor informed of any delays encountered and confirm such delays will not jeopardize the quarterly mailing date.
    - 3.5.1.1 Vendor(s) must obtain appropriate approvals according to the established process.
- 3.6 Approximately 15 calendar days following the mailing of each issue, there will be a pre-production meeting or phone conference with Aging Partners to discuss the next issue either on-site at Aging Partners or via phone conference.
  - 3.6.1 Participants shall be Aging Partners' Editor and the Vendor's Writer and may also include the Vendor's Designer, Account Manager and any other essential staff as deemed necessary.
- 3.7 Aging Partners will e-mail a current advertising list to the Vendor for each quarterly issue.
- 3.8 Vendor to receive instructions from Aging Partners and produce each quarterly magazine accordingly to include required sections, news gathering, photography, copywriting, design layout, generate proofs for the advertisements, provide complete drafts of the magazine and assist Aging Partners in the proofing process.
- 3.9 Vendor shall provide a PDF with hyperlinks for each issue to be placed on Aging Partners' website.
  - 3.9.1 PDF must be the final version approved for printing.

#### **4. PHOTOGRAPHY**

- 4.1 Each quarterly issue may include photography for Butler, Fillmore, Lancaster, Polk, Saline, Saunders, Seward and York counties in Nebraska.
- 4.2 Each article has been averaging approximately 2 hours of time for photography (includes travel time).
  - 4.2.1 All travel and travel expenses to each location must be included in the cost proposal/price list.
- 4.3 Vendor to insure that the photographer arranges a meeting or phone conference with Aging Partners' Editor, Zoe Olson and the Writer before approaching an interviewee.
- 4.4 Photography for "Living Well Magazine" shall be royalty free.
- 4.5 Photographer must obtain photo consent, via signed consent form prior to photo shoot and provide Aging Partners with a copy and also retain their copy on file indefinitely for future reference.
- 4.6 Deliver photos on disk or flash drive to Aging Partners' Editor by assigned deadline at no additional cost to the City.

#### **5. ARTICLE RESEARCH AND COPYWRITING**

- 5.1 Each quarterly issue may include news articles, research and copywriting for Butler, Fillmore, Lancaster, Polk, Saline, Saunders, Seward and York counties in Nebraska
  - 5.1.1 All travel and travel expenses to each location must be included in the cost proposal/price list.
- 5.2 Aging Partners will provide ALL story ideas to the Vendor's Writer in each quarterly pre-production meeting or phone conference.
- 5.3 A quarterly issues contains approximately 20 to 30 articles.
  - 5.3.1 Aging Partners provides on the average approximately 5 to 7 articles for inclusion.
  - 5.3.2 Vendor shall be responsible for researching and writing the remaining articles (based on story ideas provided by Aging Partners).
- 5.4 Article is approximately 400 words cut down for space.
- 5.5 After pre-production meeting, Vendor to contact the interviewee directly to schedule and perform an on-site interview.

- 5.6 Vendor's Copywriter to create the article using AP Stylebook for rules and maintaining a history of preferences and incorporate into the magazine draft for Aging Partners.

## **6. DESIGN, LAYOUT AND PROOFING**

- 6.1 Vendor's Designer shall perform the following as a part of the design, layout and proofing aspect for each quarterly issue:
  - 6.1.1 Work closely with the Aging Partners' Editor to compile the magazine contents including advertisements, articles and artwork.
  - 6.1.2 Consult with Aging Partners as needed to ensure styles, page placement and special requests are handled.
  - 6.1.3 Upon request, the Designer shall CREATE or EDIT advertisements that have been identified or collected by Aging Partners.
    - 6.1.3.1 Approximately half of all advertisements will require creation or editing (typically the magazine contains between 10 to 20 advertisements per issue).
  - 6.1.4 Generate and complete the design and layout of each quarterly magazine in its entirety.
    - 6.1.4.1 Initial layout to be determined by the Vendor's Designer and is subject to approval by Aging Partners.
    - 6.1.4.2 Some pages may include advertisement renewals which require no design changes.
    - 6.1.4.3 Aging Partners to consult directly with the advertisers on renewals.
  - 6.1.5 Provide Aging Partners with a draft and/or a link of the entire magazine so Aging Partners can print draft copies.
  - 6.1.6 Incorporate necessary changes after Aging Partners' Editor and staff reviews the initial draft and provide a revised draft and/or link of the entire magazine which reflect the changes.
    - 6.1.6.1 This process may repeat up to as many times as necessary until the entire issue is approved by Aging Partners' Editor.
    - 6.1.6.2 Vendor's designated staff shall first discuss changes being made (via on-site meetings or phone conferences) and shall be followed up with written instructions and approvals.
  - 6.1.7 Retain a copy of the final approved draft from Aging Partners.
  - 6.1.8 Provide the final approved files and matching hard copy draft along with any special instructions for the Printer.
    - 6.1.8.1 Files shall be provided according to Printer's specifications.
  - 6.1.9 Assist Aging Partners in reviewing/approving the proof(s) from the Print vendor for items such as, but not limited to, accuracy, page order, content, proper fonts, and colors and provide appropriate feedback to Aging Partners on any necessary changes to be made prior to printing.
    - 6.1.9.1 The circumstances and nature of the changes will determine who will make the necessary corrections (Design or Printing vendor).
  - 6.1.10 Verify correctness of ALL hyperlinks within each article and advertisement.

## **7. ADDITIONAL VENDOR REQUIREMENTS**

- 7.1 Vendor to assign an Account Manager to oversee all facets of production including, but not limited to copywriting, photography, design, presentation of drafts, providing artwork timely to the printer/printer, assistance in proofing and making necessary corrections while insuring compliance with all established deadlines and may also participate in pre-production meetings.
  - 7.1.1 Meeting all deadlines is critical and is considered a performance factor under the contract.
  - 7.1.2 Vendor to provide in the Attribute Section of the e-bid the name of the individual that has been assigned to be the Account Manager for the "Living Well" quarterly publication.
  - 7.1.3 The Vendor's Account Manager shall confirm that all writers, photographers, designers, Print Vendor and Aging Partners are all working from the correct documents, reviewing proofs and making necessary corrections while insuring each quarterly deadline is met for production and mailing.

- 7.2 Vendor shall maintain an electronic storage of photos and materials for the entire contract period (including the contract renewal) and shall not destroy them without prior written approval from Aging Partners
  - 7.2.1 Aging Partners is the owner of all artwork (i.e. photos, articles and artwork).
- 7.3 Upon expiration of the contract, Vendor shall return all photos, articles and artwork to Aging Partners as electronic file by quarterly issue.
- 7.4 Vendor shall be knowledgeable about postal regulations and provide Aging Partners with timely notification of changes that impact their publication.

## **8. SUBMITTAL REQUIREMENTS**

- 8.1 General Statement of Qualifications.
  - 8.1.1 Company name, address, and contact information.
  - 8.1.2 Number of years established and former names of company.
  - 8.1.3 Types of services the company is particularly qualified to perform.
  - 8.1.4 Key personnel, relevant experience, and length of service with the company.
  - 8.1.5 Number of staff usually employed, and currently employed.
  - 8.1.6 Project approach including design and any suggested refinements to the scope and tasks.
    - 8.1.6.1 Vendor shall include information in their proposal response on ideas or approaches how they intend to manage the quarterly publication process efficiently and suggest improvements on the handling.
  - 8.1.7 List projects of similar or related scope for which the company was the lead or principal company.
    - 8.1.7.1 Submit actual printed magazine samples with the Proposal response.
    - 8.1.7.2 Project descriptions should include list of references including names, titles, and contact information.
  - 8.1.8 Acknowledgment of willingness and capacity to meet the required scope of services and time line.
  - 8.1.9 **The proposed total price of the project will be an award consideration.**
  - 8.1.10 **The Cost Proposal/Price List shall be completed by the Vendor and made part of the written proposal and submitted at time of RFP closing (see "Attachment A - Cost Proposal/Price List" in the Attachment section of the E-bid).**

## **9. SELECTION PROCESS**

- 9.1 The selection and award process will include the following basic steps (Please note that these dates are approximate and subject to change).
  - 9.1.1 Issue Request for Proposal (RFP) November 21, , 2012
  - 9.1.2 Receive Proposals December 12, 2012
  - 9.1.3 Review Proposals & Develop Interview List January 3 through 10, 2013
  - 9.1.4 Interviews January 17, 2013
  - 9.1.5 Select Consultant & Negotiate Contract January 24, 2013
  - 9.1.6 Notice to Proceed February 7, 2013
  - 9.1.7 Pre-Production Meeting Summer Issue April 16, 2013
- 9.2 The criteria for determining the level of responsiveness of each proposal include, but are not limited to:
  - 9.2.1 The ability, capacity and skill of the Vendor to deliver and produce the necessary elements to meet the requirements of the RFP. (15 Points)
  - 9.2.2 The ability, capacity and skill of the Vendor to understand the project and develop a cohesive project team. (10 Points)
  - 9.2.3 The experience, professional integrity, efficiency, character, and judgment of the Vendor. (10 Points)
  - 9.2.4 Vendor's prior experience in producing high-quality projects of similar scope and scale. (15 Points)

- 9.2.5 The quality of Vendor's performance (management and technical) on projects, including the ability to establish and meet project schedules. (15 Points)
- 9.2.6 The ability of the Vendor to present a clear, concise proposal. (10 Points)
- 9.2.7 The Vendor's response to how they will manage the quarterly publication process efficiently and suggest improvements on the handling while maintaining a high level of quality. (10)
- 9.2.8 Submission of proposals for both RFP 12-118 and RFP 12-119 respectively and ability to meet the requirements and offer a cost-effective discount for handling all aspects of the project. (15 Points)
- 9.2.9 Cost Proposal/Price List. (25 Points)
- 9.3 If necessary, the selection committee shall interview at least two, but not more than four, of the vendors for additional consideration.
  - 9.3.1 Following initial interviews, the top ranked company for RFP 12-118 and 12-119 will both be brought in for interviews to determine that both Vendors' scheduling can successfully work together to produce the "Living Well" magazine.
  - 9.3.2 Key staff members proposed to be involved with this project are requested to be in attendance at the interview.
  - 9.3.3 Firms submitting proposals are asked to make time available for interviewing.
- 9.4 A negotiating committee shall meet with the firm ranked as "first" to develop the final scope of services and negotiate terms, conditions, and final compensation.
  - 9.4.1 If an agreement with the firm ranked as "first" cannot be reached, the negotiations with that firm shall be terminated.
  - 9.4.2 The negotiation procedure shall be repeated with each firm in the order of ranking, as long as factors for ranking have not changed, until an agreement is reached or until negotiations with all firms fail.
- 9.5 The City will select a vendor whose qualifications and price is in the best interest of the City.

## **10. GENERAL TERMS AND CONDITIONS**

- 10.1 All companies submitting a proposal will be informed in writing of the City's decision within ten (10) working days following the final Vendor selection.
- 10.2 The successful companies shall obtain all insurance required and approved by the City Attorney for City of Lincoln.
  - 10.2.1 Standard Certificate of Insurance requirements can be found on the City website at
- 10.3 All certificates of insurance shall be filed with the City on the standard **Accord Certificate of Insurance** form showing the specific limits of insurance coverage required and showing City of Lincoln as named additional insured.

**Attachment A - Cost Proposal/Price List  
Production of "Living Well" Magazine  
RFP 12-118**

Provide your total flat cost based on a "Per Quarterly Issue" for the production of the 40 Page Living Well Magazine \$ \_\_\_\_\_.

Show the breakdown of the above flat costs for the "Per Quarterly Issue" (price should include, but not be limited to the following):

News gathering	\$ _____
Copywriting	\$ _____
Photography	\$ _____
Graphic Design/Layout	\$ _____
General Account Coordination	\$ _____
Proofing	\$ _____
Editing corrections	\$ _____
Travel	\$ _____
Travel Expenses	\$ _____
Meetings/Phone Conferences	\$ _____
Miscellaneous Charges	\$ _____

**Optional Pricing**

44 Pages: Total for "Per Quarterly Issue" \$ \_\_\_\_\_

48 Pages: Total for "Per Quarterly Issue" \$ \_\_\_\_\_

*Note:* Vendors may submit their own typed document and add additional categories, but the pricing proposal must be named "Attachment A – Cost Proposal/Price List", be in this format and include the above information at a minimum. Additional items can be added to the above list, but shall be listed using an industry standard type description and indicate how the pricing is figured (i.e. per each, hour, etc.).

**ADDENDUM #1**  
**Issue Date: 12/03/12**  
**SPECIFICATION NO. 12-118**  
**FOR**  
**Printing and Mailing of “Living Well” Magazine**

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction. Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

1. What is the overall purpose of the magazine?

Answer: *Living Well* magazine's purpose is to educate and inform persons on topics, programs, issues and activities that are of concern to the mature population, their families and community organizations. Specific emphasis is on articles pertaining to the services of Aging Partners, an Area Agency on Aging.

2. How many pages of new content versus standard content (i.e. Community Resources and etc) will need to be developed each issue?

Answer: Please refer to Sections 5.3, 5.3.1, 5.3.2 and 5.4 of the “Specifications” Attachment in the e-bid.

3. Where are the story ideas generated?

Answer: Please refer to Section 5.2 of the “Specifications” Attachment in the e-bid.

4. Is there ghost writing involved or will some content be received from several writers? If so, how many articles are ghost written or written by other each issue?

Answer: Aging Partners is unclear on the term “ghost writing” as it is being used in this question. Please refer to sections 5.3, 5.3.1 and 5.3.2 of the “Specifications” Attachment in the e-bid for specific information on writing articles.

5. Are the photographs supplied to the vendor or is it the vendor's responsibility to take photos? If the vendor is responsible, are stock photos allowed and what percentage of the magazine can stock photography be used?

Answer: It is the Vendor's responsibility to take photos for the articles written by the Vendor. Photos for articles written by Aging Partners are supplied. Stock photos and graphics used to enhance articles are supplied by the Vendor. On average, 6 to 10 photos and/or graphics are included in each quarterly issue. On average, 5-10 photos are supplied by Aging Partners with articles Aging Partners provides.

6. Is there a budget per issue?

Answer: It is the City's policy to not provide information on the budget.

7. Who currently writes the publication?

Answer: Aging Partners and the current Vendor, News Link, currently write the publication.

All other terms and conditions shall remain unchanged.  
Dated this 3rd Day of December, 2012.

**CITY OF LINCOLN  
ACCESS TO RECORDS**

**Access to Records.** The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the grantee or a subgrantee in accordance with Federal Requirements, the Contractor agrees to provide the Purchaser, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to Federal Requirements to provide the appropriate Federal agency access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the Purchaser is a State and is the Recipient or a subgrantee of the Recipient in accordance with Federal Requirements, Contractor agrees to provide the Purchaser and the appropriate Federal agency access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the Recipient or a subgrantee of the Recipient in accordance with Federal Requirements, Contractor agrees to provide the Purchaser, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where any Purchaser which is the Recipient or a subgrantee of the Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

**CITY OF LINCOLN**  
**45 CFR PART 92**  
**SECTION 92.36(i)(1)**  
**BREACHES AND DISPUTE RESOLUTION**

**Disputes** - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the City. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the City. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the City shall be binding upon the Contractor and the Contractor shall abide by the decision.

**Performance During Dispute** - Unless otherwise directed by the City, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

**Claims for Damages** - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

**Rights and Remedies** - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City, Architect or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

## APPENDIX A, 45 CFR PART 74--CERTIFICATION REGARDING LOBBYING

### Certification for Contracts, Grants, Loans, and Cooperative Agreements

*(To be submitted with each bid or offer exceeding \$100,000)*

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, *apply* to this certification and disclosure, if any.

\_\_\_\_\_ Signature of Contractor's Authorized Official

\_\_\_\_\_ Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date

**CITY OF LINCOLN**  
**31 U.S.C. 1352**  
**45 CFR PART 74**  
**APPENDIX A**

**Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] -**

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*]

- Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

- Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A. Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.

- Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

**CITY OF LINCOLN  
45 CFR PART 92  
SECTION 92.36(i)(12)  
CLEAN AIR ACT  
CLEAN WATER ACT**

**Clean Air**

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

**Clean Water**

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

**CITY OF LINCOLN**  
**45 CFR PART 92**  
**SECTION 92.36(i)(6)**  
**CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

**Contract Work Hours and Safety Standards**

(1) **Overtime requirements** - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) **Withholding for unpaid wages and liquidated damages** - The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

**CITY OF LINCOLN**  
**45 CFR PART 92**  
**SECTION 92.36(i)(9)**  
**COPYRIGHTS AND RIGHTS IN DATA**

CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.

**A. Rights in Data** - These following requirements apply to each contract involving experimental, developmental or research work:

(1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

(a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and
2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance.

(c) When Federal assistance is awarded for experimental, developmental, or research work, the general intention is to increase knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless determined otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit the Federal agency involved to make available to the public, either the Federal agency's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance.

(d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.

(g) Unless determined otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small

Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

## CITY OF LINCOLN

### **Debarment and Suspension**

Awards that exceed the small purchase threshold fixed at 41 U.S.C. 403(11), are considered covered transactions for purposes of 45 CFR. As such, no contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Order No. 12549 and 12689, Debarment and Suspension. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order No. 12549.

Contractors with awards that exceed the small purchase threshold fixed at 41 U.S.C. 403(11), must provide the required certification regarding its exclusion status and that of its principal employees.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The signed and submitted bid or proposal contains material representations of fact relied upon by **City of Lincoln**. If it is later determined that the bidder or proposer knowingly rendered an erroneous representation of its debarment or suspension status, in addition to remedies available to **City of Lincoln**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 45 CFR. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**CITY OF LINCOLN  
45 CFR PART 92  
SECTION 92.36(i)(13)  
ENERGY POLICY AND CONSERVATION ACT**

Contractor will comply with mandatory standards and policies relating to energy efficiency which are contained in the Nebraska state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94- 163, 89 Stat. 871.) [53 FR 8078, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19645, Apr. 19, 1995].

**CITY OF LINCOLN**  
**45 CFR PART 92**  
**SECTION 92.36(i)(3)**  
**Executive Order 11246**  
**EQUAL EMPLOYMENT OPPORTUNITY**

**Civil Rights, Equal Employment Opportunity** The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.

**CITY OF LINCOLN  
45 CFR PART 92  
SECTION 92.36(i)(8)  
PATENT RIGHTS**

**Patent Rights** - These following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until the necessary parties are notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

## **Bid Protests; Definitions; Appeals Board; Fees.**

### Definitions.

- (1) **Interested party** shall mean an actual or prospective bidder whose direct economic interest would be affected by the award of a contract by the City to another party, or by the failure of the City to award a contract to such actual or prospective bidder.
- (2) **Protest** shall mean a written objection by an interested party on any phase of the bidding process, including specification preparation, bid solicitation, and intent to award, for the acquisition of supplies or services.
- (3) **Protester** shall mean an interested party who has filed a protest pursuant to subsection (b).
- (4) **Procurement Appeals Board** shall mean an independent panel of five disinterested individuals appointed by the Mayor, which individuals shall have a thorough knowledge of the purchasing process and practices, and laws applicable thereto. Members of such board shall be appointed for three-year, staggered terms; provided, however, two of the members first appointed shall serve for a period of one year, two shall serve for a period of two years, and one for a period of three years, with each appointee thereafter, except for appointees filling a vacancy, serving for a period of three years.
  - (b) **Right to Protest.** An interested party may protest to the City Purchasing Agent, which protest shall be submitted in writing on company letterhead. Protests based on alleged apparent improprieties in a solicitation or other request for proposals must be filed before bid opening. In all other cases, the protest must be filed within five working days following the bid opening or if the protest is based on the selection of the lowest responsible bidder, not later than five working days following the selection of the lowest responsible bidder. To expedite handling of protests, the envelope containing the protest should be clearly labeled "Protest." The written protest shall include as a minimum the following:
    - (1) The name and address of the interested party;
    - (2) Appropriate identification of the relevant solicitation, and if a bid has been opened, its number, and date of opening;
    - (3) A statement of reasons for the protest;
    - (4) Supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated. Upon timely receipt of a protest, the City shall not proceed further with the solicitation or with the award of the contract and shall suspend performance under the contract until the Mayor has made a decision on the protest.
  - (c) **Authority to Resolve Protests.** Prior to the commencement of an appeal to the Procurement Appeals Board concerning any protest, the Purchasing Agent shall attempt to resolve any protest filed by an interested party concerning any solicitation. If the protest is not resolved by mutual agreement, the Purchasing Agent shall issue a decision in writing within five working days. The decision shall (1) state the reasons for the action taken, and (2) inform the interested party of their right to the administrative review as provided by the Procurement Appeals Board. A copy of the decision shall be mailed or otherwise furnished immediately

to the protester and all other bidders. If not satisfied with the decision of the Purchasing Agent, any protester may appeal to the Procurement Appeals Board, but the decision shall be final unless the protester files a timely appeal with the Procurement Appeals Board.

- (d) Appeals Board Procedures. Any protester, within five working days of receipt of a decision of the Purchasing Agent, may file with the Finance Director a written notice of appeal for a hearing before the Procurement Appeals Board. The Notice of Appeal shall be accompanied by a deposit of \$500.00 to defray the cost of processing such appeal, which deposit shall be returned if the Mayor decides in favor of the protester filing the appeal. The Notice of Appeal must clearly state the action protested and the basis of appeal.

Upon receipt of an appeal from an protester, the Finance Director shall convene the Board within ten working days or as soon thereafter as reasonably possible to conduct an administrative review of the appeal. The Board shall decide whether the solicitation being appealed was in accordance with all applicable laws and regulations and the terms and conditions of all applicable specifications, and whether waiver of specifications, conditions or defects in a bid, if any, were justified and in the best interest of the City.

Within ten working days of hearing such appeal, the Board shall submit its findings and recommendations to the Mayor. If all five members are present, an affirmative vote of three shall be required to pass the recommendation on to the Mayor. If only three members are present, only an affirmative vote of two shall be required to pass the recommendation on to the Mayor. Should it become impossible to obtain a quorum of three members, the appeal shall proceed directly to the Mayor without Procurement Appeals Board action.

No determination by the Board concerning an issue of law or fact shall be final or binding on the City.

- (e) Finality of Decision. The Mayor shall consider the recommendations of the Purchasing Agent, the Procurement Appeals Board, and the Department Head or agency for which the solicitation was made and shall make the final decision on the protest. The Mayor's decision shall be final and binding upon the City. (Ord. 18495 §1; January 31, 2005; prior Ord. 16442 §1; August 9, 1993).

**CITY OF LINCOLN  
45 CFR PART 92  
SECTION 92.36(i)(7)  
REPORTING REQUIREMENT AND REGULATIONS**

Contractor agrees to provide the City, upon request, full and complete reports and/or other information as to the Contractor's operations and conduct under the Contract.

**CITY OF LINCOLN  
45 CFR PART 92  
SECTION 92.36(i)(11)  
RETENTION OF RECORDS**

Contractor agrees to retain all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

**CITY OF LINCOLN  
45 CFR PART 74  
APPENDIX A  
37 CFR PART 401**

**Rights to Inventions Made Under a Contract or Agreement**

Contractor agrees to comply with 37 CFR Part 401, Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts or Cooperative Agreements, and any implementing regulations issued by City of Lincoln. This contract provides for the rights of the Federal Government and City of Lincoln with regard to the performance of experimental, developmental, or research work in any resulting invention as specified under 37 CFR Part 401.

**CITY OF LINCOLN  
45 CFR PART 92  
SECTION 92.36(i)(2)  
TERMINATION PROVISIONS**

**Termination.** This Contract may be terminated by the following:

**Termination for Convenience.** Either party may terminate this Contract upon thirty (30) days written notice to the other party for any reason without penalty.

**Termination for Cause.** The City may terminate the Contractor for cause if the Contractor:

- 1) Refuses or fails to supply the proper labor, materials and equipment necessary to provide the services outlined in the Contract
- 2) Disregards Federal, State or local laws, ordinances, regulations, resolution or orders
- 3) Otherwise commits a substantial breach or default of any provision of the Contract Document. In the event of a substantial breach or default the City will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the contract shall terminate.

# INSURANCE REQUIREMENTS FOR ALL CITY CONTRACTS

## 1. GENERAL PROVISIONS

- A. **Indemnification.** The Contractor shall indemnify and save harmless the City of Lincoln, Nebraska from and against all losses, claims, damages, and expenses, including attorney's fees, arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Contractor, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Contractor to indemnify or hold harmless the City of Lincoln for any losses, claims, damages, and expenses arising out of or resulting from the sole negligence of the City of Lincoln, Nebraska.
- B. **Approved Coverage Prior to Commencing Work/Subcontractors Included.** Contractor shall purchase and maintain in place insurance to Protect Contractor and City against all liabilities and hazards as provided in this article throughout the duration of the Contract. Contractor shall not commence work under this contract until the Contractor has obtained all insurance required under this Section and such insurance has been approved by the City Attorney for the City of Lincoln, nor shall the Contractor allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor has been so obtained and approved.
- C. **Occurrence Basis Coverage.** All insurance shall be provided on an **occurrence basis** and not on a claims made basis, except for hazardous materials, errors and omissions, or other coverage not reasonably available on an occurrence basis; provided that all such claims made coverage is subject to the prior written approval of the City Attorney and must be clearly indicated as such in any certificate showing coverage.
- D. **Authorized and Rated Insurers Required.** All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted by the City Attorney.
- E. **Certificates Showing Coverage.** All certificates of insurance shall be filed with the City Attorney, and may utilize an appropriate standard ACORD Certificate of Insurance form showing the specific limits of insurance coverage required by this Article; provided that restrictions, qualifications or declarations inconsistent with the requirements of this Article shall not relieve the Contractor from providing insurance as required herein. Such certificates shall show the City of Lincoln as additional insured, including by specific endorsement where necessary, as indicated in the following requirements. Such certificate shall specifically state that the related insurance policies are to be endorsed to require the insurer to provide the City of Lincoln thirty days, notice of cancellation, non-renewal or any material reduction in the stated amounts or limits of insurance coverage.
- F. **Terminology.** The terms "insurance," "insurance policy," or "coverage" as used in this article are used interchangeably and shall have the same meaning as "insurance" unless the context clearly requires otherwise. References to "ISO®" forms are merely for convenience and ease of reference, and an equivalent or better form as determined acceptable by the City Attorney may be used. (Note: ISO® is a registered trademark of ISO Properties, Inc.)

## 2. INSURANCE REQUIREMENTS

- A. **Scope of Required Coverage.** The Contractor shall take out and maintain during the life of Contract such insurance in the forms and minimum amounts as specified in this Article and as will protect Contractor and City from the following claims arising out of or resulting from or in connection

with the Contractor's operations, undertakings or omissions directly or indirectly related to the Contract, whether by the Contractor or any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- (1) Claims under workers' compensation, disability benefit, or other employee benefit acts;
- (2) Claims arising out of bodily injury, occupational sickness or disease, or death of an employee or any other person;
- (3) Claims customarily covered under personal injury liability coverage;
- (4) Claims other than to the work itself arising out of an injury to or destruction of tangible property, including the loss of use resulting therefrom;
- (5) Claims arising out of ownership, maintenance or use of any motor vehicle;
- (6) Railroad protective liability coverage in the event the contract involves work to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing.

**B. Worker's Compensation Insurance and Employer's Liability Insurance.** The Contractor shall provide applicable statutory Worker's Compensation Insurance with minimum limits as provided below covering all Contractor's employees, and in the case of any subcontracted work, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for Subcontractor's employees.

The Contractor shall provide Employer's Liability Insurance with minimum limits as provided below placed with an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each Subcontractor similarly to maintain Employer's Liability Insurance on the Subcontractor's employees.

Coverage	Listing	Min Amt	Notes
<b>Worker's Comp.</b>			
	State	Statutory	
	Applicable Federal	Statutory	
<b>Employer's Liability</b>			
	Bodily Injury by accident	\$500,000	each accident
	Bodily Injury by disease	\$500,000	each employee
	Bodily Injury	\$500,000	policy limit

**C. Commercial General Liability Insurance.**

- (1) The Contractor shall provide Commercial General Liability Insurance in a policy form providing no less comprehensive and no more restrictive coverage than provided under the ISO® form CG00010798 or newer with standard exclusions "a" through "o" and with minimum limits as provided below. Any other exclusions that operate to contradict or materially alter the standard exclusions shall be specifically listed on the certificate of insurance and shall be subject to the prior written approval of the City Attorney.

Coverage	Min Amt	Notes
General	\$2,000,000	Aggregate
Products and Completed Operations	\$2,000,000	Aggregate
Personal and Advertising Injury	\$1,000,000	
Each Occurrence	\$1,000,000	
Fire Damage Limit	\$ 100,000	any one fire
Medical Damage Limit	\$ 10,000	any one person

(2) The required Commercial General Liability Insurance shall also include the following:

- Coverage for all premises and operations
- Endorsement to provide the general aggregate per project endorsement
- Personal and advertising injury included
- Operations by independent contractors included
- Contractual liability coverage included
- X.C.U. Coverage including coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below the surface of ground.
- Any fellow employee exclusions shall be deleted
- Coverage shall not contain an absolute pollution exclusion, and applicable remaining coverage shall apply for pollution exposures arising from products and completed operations.
- Coverage for products and completed operations maintained for duration of work and shall be maintained for a minimum of three years after final acceptance under the Contract or the warranty period for the same whichever is longer, unless modified in any Special Provisions.
- Contractual Liability coverage shall include contractually assumed defense costs in addition to any policy limits.

(3) If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing, Railroad Contractual Liability Endorsement (ISO® form CG24170196 or newer).

(4) City may at its sole option, and in lieu of being additional insured on the Contractor's policy, by written requirement in the Special Provisions or by written change order, require Contractor to provide a separate Owner's Protective liability policy. The premium cost to obtain such insurance shall be as paid as provided in the Special Provision or change order, with any related cost savings as reasonably determined by the City being reimbursed or paid to the City.

**D. Vehicle liability insurance coverage.**

- The Contractor shall provide reasonable insurance coverage for all owned, non-owned, hired and leased vehicles with specific endorsements to include contractual liability coverage and delete any fellow employee exclusion.
- If specifically required in the Special Provisions, the required coverage shall also include an endorsement for auto cargo pollution (ISO® form CA 99 48).

**E. Railroad Protective Liability.** If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with

minimum limits for bodily injury and property damage of \$2,000,000 per occurrence, \$6,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City Attorney's office prior to any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

- F. **Umbrella or Excess Insurance.** The Contractor shall provide Umbrella or Excess insurance coverage with minimum coverage limits of \$3,000,000 each occurrence and aggregate.
- G. **City included as Insured on Contractor's Policy – Endorsements required.**  
The Contractor shall provide adequate written documentation, including applicable ACORD certificates, declarations pages or other acceptable policy information demonstrating that the City is included as an additional insured along with the Contractor with respect to all of the coverages required in this "Section 2A Insurance Requirements," except for applicable Worker's Compensation coverage, to include all work performed for the City and specifically including, but not limited to, any liability caused or contributed to by the act, error, or omission of the Contractor, including any related subcontractors, third parties, agents, employees, officers or assigns of any of them. The documentation or endorsement shall specifically include the city as an additional insured for purposes of Products and Completed Operations. The inclusion of the City as additional insured shall be for coverage only on a primary basis for liability coverage, and no coverage shall contain a policy or other restriction or attempt to provide restricted coverage for the City, whether on an excess, contributory or other basis regardless of any other insurance coverage available to the City.

### 3. **CONTRACTOR'S INDEMNITY – CONTRACTUAL LIABILITY INSURANCE**

- A. To the same extent as specified for minimum coverage requirements in Section 2 above, the required insurance shall include contractual liability coverage to include indemnification and hold harmless agreements and provisions in the related Contract Documents, specifically including the following provision:
- (1) To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the City, its officers, agents, employees, volunteers and consultants from and against any and all claims, damages, losses, costs, and expenses, including but not limited to attorney's fees and costs arising out of or related to the Contract or the Contractor's activities, errors, or omissions related to the Contract including liabilities or penalties imposed by applicable, law, rule or regulation in connection therewith; provided that such claims, damages, losses, costs, and expenses, including but not limited to attorney's fees and costs:
    - is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use therefrom, and
    - is caused in whole or in part by any act or omission of the Contractor, any subcontractor, agent, officer, employee, or assigns of the same or by anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in whole or in part by a party indemnified hereunder.
  - (2) Such indemnification shall not be construed to negate, abridge, limit or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this section.
- B. In any and all claims by any employee (whether an employee of the Contractor or subcontractor, or their respective agents or assigns by anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable as an employer) in whole or in part against the City, its officers, agents, employees, volunteers or consultants, the above indemnification shall not be limited in any way by the amount of damages, compensation, benefits or other contributions payable by or on behalf of a the employer under Worker's Compensation statutes, disability benefit acts, or any other employee benefit or payment acts as the case may be.

- C. The obligations of indemnification herein shall not include or extend to:
- (1) Any outside engineer's or architect's professional errors and omissions involving the approval or furnishing of maps, drawings, opinions, reports, surveys, change orders, designs or specifications within the scope of professional services provided to the City and related to the Contract; and
  - (2) Any claims arising out of the negligence of the City to the extent the same is the sole and proximate cause of the injury or damage so claimed.
- D. In the event of any litigation of any such claims shall be commenced against the City, Contractor shall defend the same at Contractor's sole expense upon notice thereof from the City. Contractor shall notify the insuring company that the City reserves and does not waive any statutory or governmental immunity and neither Contractor, nor Contractor's counsel whether employed by Contractor or by an insurer on behalf of the Contractor shall waive such defenses or enter into any settlement or other disposition requiring waiver of any defenses or immunity of the City without the express written consent of the City.

#### **4. CONTRACTOR'S INSURANCE FOR OTHER LOSSES.**

- A. Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools owned, rented or used in connection with the Contract including any tools, machinery, equipment, storage devices, containers, sheds, temporary structures, staging structures, scaffolding, fences, forms, braces, jigs, screens, brackets, vehicles and the like owned or rented by Contractor, or Contractor's agents, subcontractors, suppliers, or employees.
- B. In connection with the above, Contractor shall cause or require any applicable insurance related to physical damage of the same to provide a waiver of a right of subrogation against the City.

#### **5. NOTIFICATION IN EVENT OF LIABILITY OR DAMAGE.**

- A. The Contractor shall promptly notify the City in writing and provide a copy of all claims and information presented to any of Contractor's insurance carrier/s upon any loss or claim or upon any occurrence giving rise to any liability or potential liability related to the Contract or related work. The notice to the City shall include pertinent details of the claim or liability and an estimate of damages, names of witnesses, and other pertinent information including the amount of the claim, if any.
- B. In the event the City receives a claim or otherwise has actual knowledge of an any loss or claim arising out of the Contract or related work and not otherwise known to or made against the Contractor, the City shall promptly notify the Contractor of the same in writing, including pertinent details of the claim or liability; Provided, however the City shall have no duty to inspect the project to obtain such knowledge, and provided further that the City's obligations, if any, shall not relieve the Contractor of any liability or obligation hereunder.

#### **6. PROPERTY INSURANCE/ BUILDER'S RISK.**

- A. The Contractor shall provide property insurance (a/k/a Builder's Risk or installation Floater) on all Projects involving construction or installation of buildings or structures and other projects where provided in the Special Provisions. Such insurance shall be provided in the minimum amount of the total contract sum and in addition applicable modifications thereto for the entire work on a replacement cost basis. Such insurance shall be maintained until the City completes final acceptance of the work as provided in the Contract. Such insurance shall be written and endorsed, where applicable, to include the interests of the City, Contractor, Subcontractors, Sub-subcontractors in the related work. The maximum deductible for such insurance shall be \$5,000 for each occurrence, which deductible shall be the responsibility of the Contractor. Such insurance shall contain a "permission to occupy" endorsement.

- B. All related Property Insurance shall be provided on a "Special Perils" or similar policy form and shall at a minimum insure against perils of fire including extended coverage and physical loss or damage including without limitation or duplication of coverage: flood, earthquake, theft, vandalism, malicious mischief, collapse, and debris removal, including demolition whether occasioned by the loss or by enforcement of applicable legal or safety requirements including compensation or costs for City's related costs and expenses (as owner) including labor required as a result of such loss.
- C. All related Property Insurance shall include coverage for falsework, temporary buildings, work stored off-site or in-transit to the site, whether in whole or in part. Coverage for work off-site or in-transit shall be a minimum of 10% of the amount of the policy.
- D. The Contractor's Property Insurance shall be primary coverage for any insured loss related to or arising out of the Contract and shall not be reduced by or coordinated with separate property insurance maintained by the City.

**INSTRUCTIONS TO PROPOSERS**  
**CITY OF LINCOLN, NEBRASKA**  
**PURCHASING DIVISION**

**1. PROPOSAL PROCEDURE**

- 1.1 All responses to electronic RFP's will be completed as outlined in this document and the specifications using a two step process.
  - A) Proposers shall respond electronically to all attributes and addendums as required.
  - B) All written responses and information shall be mailed or delivered to the office of the Purchasing Division as outlined in the specifications.
- 1.2 Proposer shall submit complete sets of the RFP documents and all supporting material as indicated in the specifications. Any interlineation, alteration or erasure on the specification document shall be initialed by the proposer. Proposer shall not change the proposal form nor make additional stipulations on the specification document. Any amplified or qualifying information shall be on the proposer's letterhead and firmly attached to the response/offer document.
- 1.3 Proposed prices shall be submitted on company letterhead with the proposal if the specifications indicate that price will be evaluated as part of the award criteria.
- 1.4 Failure to complete the electronic and written portions of the RFP may cause the proposal to be rejected.
- 1.5 Response by a firm / organization other than a corporation must include the name and address of each member.
- 1.6 A response by a corporation must be signed in the name of such corporation by a duly authorized official thereof.
- 1.7 Any person signing a response for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.
- 1.8 Proposals received after the time and date established for receiving offers will be rejected.

**2. EQUAL OPPORTUNITY**

- 2.1 Each proposer agrees that it shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, national origin, age, or marital status. In the employment of persons, proposer shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to race, color, religion, sex, disability, national origin, age, or marital status.

**3. DATA PRIVACY**

- 3.1 Proposer agrees to abide by all applicable State and Federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.
- 3.2 The proposer agrees to hold the City harmless from any claims resulting from the proposer's unlawful disclosure or use of private or confidential information.
- 3.3 Proposer agrees to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and implementing regulations pertaining to confidentiality of health information.
  1. If applicable to the work requested a sample "Business Associate Contract" will be included, which will be part of the contract and incorporated by this reference.

**4. PROPOSER'S REPRESENTATION**

- 4.1 Each proposer by signing and submitting an offer, represents that he/she has read and understands the proposal documents, and the offer has been made in accordance therewith.
- 4.2 Each offer represents the proposer is familiar with the local conditions under which the work will take place and has correlated observations with the RFP requirements

**5. INDEPENDENT PRICE DETERMINATION**

- 5.1 By signing and submitting this RFP, the proposer certifies that the prices offered have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, with any other proposer competitor; unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the proposer prior to RFP opening directly or indirectly to any other competitor; no attempt has been made, or will be made, by the proposer to induce any person or firm to submit, or not to submit, a response for the purpose of restricting competition.

**6. SPECIFICATION CLARIFICATION**

- 6.1 Proposers shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of specification documents.
- 6.2 Proposers desiring clarification or interpretation of the specification documents shall make a written request which must reach the Purchasing Agent at least seven (7) calendar days prior to date and time for response receipt.
- 6.3 Interpretations, corrections and changes made to the specification documents will be made by electronic addenda.
- 6.4 Oral interpretations/changes to Specification Documents made in any other manner than written form, will not be binding on the City; proposers shall not rely upon oral interpretations.

## **7. ADDENDA**

- 7.1 Addenda are instruments issued by the City prior to the date for receipt of offers which modify or interpret the specification document by addition, deletion, clarification or correction.
- 7.2 Changes made to the specification documents will be made by electronic addenda to all bidders via e-mail notice.
- 7.3 No addendum will be issued later than forty-eight (48) hours prior to the date and time for receipt of offers, except an addendum withdrawing the RFP, or addendum including postponement.
- 7.4 Proposers shall verify addendum receipt electronically prior to bid closing or RFP may be rejected.

## **8. ANTI-LOBBYING PROVISION**

- 8.1 During the period between the advertised date and the contract award, bidders, including their agents and representatives, shall not directly discuss or promote their proposal with any member of the City Council or City Staff except in the course of City-sponsored inquiries, briefings, interviews, or presentations, unless requested by the City.

## **9. SITE VISITATION**

- 9.1 Proposers shall inform themselves of the conditions under which work is to be performed, including: site of work, the structures or obstacles which may be encountered and all other relevant matters concerning work performance.
- 9.2 The proposer will not be allowed any extra compensation by or for any condition which he/she might fully have informed themselves of prior to submitting the offer.

## **10. EVALUATION AND AWARD**

- 10.1 The signed proposal shall be considered an offer on the part of the proposer. Such offer shall be deemed accepted upon issuance by the City of purchase orders, contract award notifications, or other contract documents appropriate to the work.
- 10.2 No offer shall be withdrawn for a period of ninety (90) calendar days after the time/ date established for receiving offers, and each proposer agrees in submitting an offer.
- 10.3 **Fee envelopes MAY be opened** and evaluated as part of the criteria for ranking interested proposers.
- 10.4 The RFP process is designed to be a competitive negotiation platform, where price is not required to be the sole determinative factor; also the City has the flexibility to negotiate with a select firm or selected firms to arrive at a mutually agreeable relationship.
- 10.5 A committee will be assigned the task of reviewing the proposals received.
  1. The committee may request documentation from Proposer(s) of any information provided in their proposal response, or require the Proposer to clarify or expand qualification statements.
  2. The committee may also require a site visit and/or verbal interview with a Proposer or select group of Proposers to clarify and expand upon the proposal response.
- 10.6 The RFP will be awarded to the most responsible proposer whose proposal will be most advantageous to the City, and deemed to best serve City requirements.
- 10.7 The City reserves the right to accept or reject any or all offers, parts of offers; request rebids; waive irregularities and technicalities in offers; such as shall best serve the requirements and interests of the City.

## **11. TERMINATION/ASSIGNMENT**

- 11.1 The City may terminate the Contract if the Contractor:
  1. Refuses or fails to supply enough properly skilled workers or proper equipment to satisfactorily provide/ complete the work as requested.
  2. Disregards laws, ordinances, or regulations or orders of a public authority having jurisdiction over the Contract.
  3. Otherwise commits a substantial breach of any provision of the Contract Document.
- 11.2 *By mutual agreement both parties of the contract agreement*, upon receipt and acceptance of not less than a thirty (30) calendar days written notice, the contract may be terminated on an agreed upon date, prior to the end of the contract period, without penalty to either party.
  1. Upon any such termination, the Contractor agrees to waive any claims for damages, including loss of anticipated profits, on account thereof, and as the sole right and remedy of the Contractor, the City shall pay Contractor in accordance with this section.
  2. Upon such termination, the obligations of the Contract shall continue as to options of the work already performed and as to bona fide obligations the Contractor assumed prior to the date of termination.
- 11.3 In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee for the benefit of creditors, of the property of the Contractor, the City may cancel this contract or affirm the contract and hold the Contractor responsible for damages.
- 11.4 The contract established as a result of this RFP process shall not be transferred to/or assigned without prior written consent of the City.

## **12. INDEMNIFICATION**

- 12.1 The proposer shall indemnify and hold harmless the City, its members, its officers and employees from and against all claims, damages, losses, and expenses, including, but not limited to attorney's fees arising out of or resulting from the performance of the contract, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property other than goods, materials and equipment furnished under this contract, including the loss of use resulting therefrom; is caused in whole or in part by any one of them or anyone for whose acts made by any one of them or anyone for whose acts made by any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder.

**Advertise 1 time  
Wednesday, November 21, 2012**

**City of Lincoln/Lancaster County  
Purchasing Division  
NOTICE TO BIDDERS**

Sealed bids will be received by the Purchasing Agent of the City of Lincoln/Lancaster County, Nebraska **BY ELECTRONIC BID PROCESS** until: **12:00 p.m., Wednesday, December 12, 2012** for the following project:

**Production of "Living Well" Magazine  
RFP No. 12-118**

Bidders must be registered on the City/County's E-Bid site in order to respond to the above Bid. To Register go to: [lincoln.ne.gov](http://lincoln.ne.gov) (type: e-bid - in search box, then click "Supplier Registration")

Once registered, vendors will receive e-mail bid notification, first acknowledging registration, then approval of registration. Upon e-mail notification of registration approval, you may go to the E-Bid site to respond to this bid. Questions concerning this bid process may be directed to City/County Purchasing at (402) 441-7414 or 441-7417 or [ssiemer@lincoln.ne.gov](mailto:ssiemer@lincoln.ne.gov)

12.2 In any and all claims against the City or any of its members, officers or employees by an employee of the proposer, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 9.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the proposer or any subcontractor under worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

### **13. TERMS OF PAYMENT**

13.1 Unless other specification provisions state otherwise, payment in full will be made by the City within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

### **14. LAWS**

14.1 The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this proposal and any agreement reached as a result of this process.

### **15. LIVING WAGE**

15.1 The bidders agree to pay all employees employed in the performance of this contract, a base wage of not less than the City Living Wage per Section 2.81 of the Lincoln Municipal Code. This wage is subject to change every July.

### **16. AFFIRMATIVE ACTION**

16.1 The City of Lincoln-Lancaster County Purchasing Division provides equal opportunity for all bidders and encourages minority businesses and women's business enterprises to participate in our bidding process.

### **17. TAXES AND TAX EXEMPT CERTIFICATE**

17.1 The City is generally exempt from any taxes imposed by the State or Federal Government. A Tax Exemption Certificate will be provided as applicable.

17.2 The Water Division of the City of Lincoln is taxable per Reg. 066.14A and no exemption certificate will be issued.

### **18. CITY AUDIT ADVISORY BOARD**

18.1 All parties of any City agreement 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 the contract/purchase order, as allowed by law.

### **19. E-VERIFY**

19.1 In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to [www.uscis.gov/everify](http://www.uscis.gov/everify).



# Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption

FORM  
13

• Read instructions on reverse side/see note below

NAME AND MAILING ADDRESS OF PURCHASER			NAME AND MAILING ADDRESS OF SELLER		
Name The City of Lincoln			Name News Link		
Street or Other Mailing Address 555 South 10th Street			Street or Other Mailing Address 2201 Winthrop Road		
City Lincoln	State NE	Zip Code 68508	City Lincoln	State NE	Zip Code 68502

**Check Type of Certificate**

Single Purchase     Blanket    If blanket is checked, this certificate is valid until revoked in writing by the purchaser.

**I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:**

**Check One**     Purchase for Resale (Complete Section A)     Exempt Purchase (Complete Section B)     Contractor (Complete Section C)

### SECTION A—Nebraska Resale Certificate

Description of Item or Service Purchased

I hereby certify that the purchase, lease, or rental of  
from the above seller is exempt from the Nebraska sales tax as a purchase for resale, rental, or lease in the normal course of our business, either in the  
form or condition in which purchased, or as an ingredient or component part of other property to be resold.

I further certify that we are engaged in business as a:     Wholesaler     Retailer     Manufacturer     Lessor  
of    Description of Product Sold, Leased, or Rented

If None, State Reason

and hold Nebraska Sales Tax Permit Number    01-

or Foreign State Sales Tax Number    State

### SECTION B—Nebraska Exempt Sale Certificate

The basis for this exemption is exemption category    1    (Insert appropriate category as described on reverse of this form.)

If exemption category 2 or 5 is claimed, enter the following information:

Description of Item(s) Purchased    Intended Use of Item(s) Purchased

If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number.    05-

If exemption category 6 is claimed, seller must enter the following information and sign this form below:

Description of Item(s) Sold    Date of Seller's Original Purchase    Was Tax Paid when Purchased by Seller?    Was Item Depreciable?  
 YES     NO     YES     NO

### SECTION C—For Contractors Only

**1. Purchases of Building Materials or Fixtures:**

As an Option 1 or Option 3 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from  
Nebraska sales tax. My Nebraska Sales or Consumer's Use Tax Permit Number is:    01-

**2. Purchases Made Under Purchasing Agent Appointment on behalf of \_\_\_\_\_:**  
(exempt entity)

Pursuant to an **attached** Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, I hereby certify that purchases  
of building materials, and fixtures are exempt from Nebraska sales tax.

Any purchaser, or their agent, or other person who completes this certificate for any purchase which is other than for resale, lease, or rental in the  
regular course of the purchaser's business, or is not otherwise exempted from the sales and use tax under Neb. Rev. Stat. §§77-2701 through 77-27,135,  
shall in addition to any tax, interest, or penalty otherwise imposed, be subject to a penalty of \$100 or ten times the tax, whichever amount is larger, for  
each instance of presentation and misuse. With regard to a blanket certificate, this penalty shall apply to each purchase made during the period the blanket  
certificate is in effect. Under penalties of law, I declare that I am authorized to sign this certificate, and to the best of my knowledge and belief, it is correct  
and complete.

sign  
here ▶

Authorized Signature

Purchasing Agent

Title

Date    2-19-13

**NOTE: Sellers must keep this certificate as part of their records. DO NOT SEND TO THE NEBRASKA DEPARTMENT OF REVENUE.**

**Incomplete certificates cannot be accepted.**

[www.revenue.ne.gov](http://www.revenue.ne.gov), (800) 742-7474 (toll free in NE and IA), (402) 471-5729

NOTE: This form cannot be used for the WATER Division of the City of Lincoln. The WATER  
Division is taxable per Reg. 066.14A or applicable laws.

## INSTRUCTIONS

**WHO MAY ISSUE A RESELL CERTIFICATE.** Form 13, Section A, is to be issued by persons or organizations making purchases of property or taxable services in the **normal** course of their business for the purpose of resale either in the form or condition in which it was purchased, or as an ingredient or component part of other property.

### **WHO MAY ISSUE AN EXEMPT SALE CERTIFICATE.**

Form 13, Section B can only be issued by persons or organizations exempt from payment of the Nebraska sales tax by qualifying for one of the six enumerated **Categories of Exemption** (see below). Nonprofit organizations that have a 501(c) designation and are exempt from federal and state income tax are **not** automatically exempt from **sales** tax. Only the entities listed in the referenced regulations are exempt from paying Nebraska sales tax on their purchases when the exemption certificate is properly completed and provided to the seller. Organizations claiming a sales tax exemption may do so only on items purchased for their own use. For health care organizations, the exemption is limited to the specific level of health care they are licensed for. The exemption is not issued to the entire organization when multiple levels of health care or other activities are provided or owned by the organization. Items purchased by an exempt organization that will be resold must be supported by a properly completed Nebraska Resale Certificate, Form 13, Section A.

Indicate the category which properly reflects the basis for your exemption. Place the corresponding number in the space provided in Section B. If category 2 through 6 is the basis for exemption, you must complete the information requested in Section B.

Nebraska Sales and Use Tax Reg-1-013, Sale for Resale – Resale Certificate, and Reg-1-014, Exempt Sale Certificate, provide additional information on the proper issuance and use of this certificate. These and other regulations referred to in these instructions are available on our Web site: [www.revenue.ne.gov/legal/regs/slstaxregs](http://www.revenue.ne.gov/legal/regs/slstaxregs).

**Use Form 13E for purchases of energy sources which qualify for exemption. Use Form 13ME for purchases of mobility enhancing equipment on a motor vehicle.**

**CONTRACTORS.** Form 13, Section C, Part 1, must be completed by contractors operating under Option 1 or Option 3 to document their tax-free purchase of building materials or fixtures from their suppliers. Section C, Part 2, may be completed to exempt the purchase of building materials or fixtures pursuant to a Purchasing Agent Appointment, Form 17. See the contractor information guides on our Web site [www.revenue.ne.gov](http://www.revenue.ne.gov) for additional information.

**WHERE TO FILE.** Form 13 is given to the seller at the time of the purchase of the property or service or when sales tax is due. The certificate must be retained with the seller's records for audit purposes. Do not send to the Department of Revenue.

**SALES TAX NUMBER.** A purchaser who completes Section A and is engaged in business as a wholesaler or manufacturer is not required to provide an identification number. Out-of-state purchasers can provide their home state sales tax number. Section B does not require an identification number when exemption category 1, 2, or 5 is indicated.

**PROPERLY COMPLETED CERTIFICATE.** A purchaser must complete a certificate before issuing it to the seller. To properly complete the certificate, the purchaser must include: (1) identification of the purchaser and seller, (2) a statement whether the certificate is for a single purchase or is a blanket certificate,

(3) a statement of basis for exemption including completion of all information for the basis chosen, (4) the signature of an authorized person, and (5) the date the certificate was issued.

**PENALTIES.** Any purchaser who gives a Form 13 to a seller for any purchase which is other than for resale, lease, or rental in the **normal** course of the purchaser's business, or is not otherwise exempted from sales and use tax under the Nebraska Revenue Act, shall be subject to a penalty of \$100 or ten times the tax, whichever amount is larger, for each instance of presentation and misuse.

Any purchaser, or their agent, who fraudulently signs a Form 13 may be found guilty of a Class IV misdemeanor.

### **CATEGORIES OF EXEMPTION**

1. Purchases made directly by certain governmental agencies identified in Nebraska Sales and Use Tax Reg-1-012, Exemptions; Reg-1-072, United States Government and Federal Corporations; and Reg-1-093, Governmental Units, are exempt from sales tax. A list of specific governmental units are provided in the above regulations. Governmental units are not assigned exemption numbers.

Sales to the United States government, its agencies, and corporations wholly owned by the United States government are exempt from sales tax. However, sales to institutions chartered or created under federal authority, but which are not directly operated and controlled by the United States government for the benefit of the public, generally are taxable. Construction projects for federal agencies have specific requirements, see Reg-1-017 Contractors.

Purchases that are **not** exempt from Nebraska sales and use tax include, but are not limited to, governmental units of other states, sanitary and improvement districts, urban renewal authorities, rural water districts, railroad transportation safety districts, and county historical or agricultural societies.

2. Purchases when the intended use renders it exempt as set out in paragraph 012.02D of Reg-1-012, Exemptions. Complete the description of the item purchased and the intended use as required on the front of Form 13. Sellers of **repair parts** for agricultural machinery and equipment cannot accept a Form 13 to exempt such sales from tax.

3. Purchases made by organizations that have been issued a Nebraska Exempt Organization - Certificate of Exemption are exempt from sales tax. Reg-1-090, Nonprofit Organizations; Reg-1-091, Religious Organizations; and Reg-1-092, Educational Institutions, identify such organizations. These organizations will be issued a Nebraska state exemption identification number. This exemption number must be entered in Section B of the Form 13.

4. Purchases of common or contract carrier vehicles and repair and replacement parts for such vehicles.

5. Purchases of manufacturing machinery or equipment by a taxpayer engaged in business as a manufacturer for use predominantly in manufacturing. This includes the installation, repair, or maintenance of such qualified manufacturing machinery or equipment (see Revenue Ruling 01-08-2).

6. A sale that qualifies as an occasional sale, such as a sale of depreciable machinery and equipment productively used by the seller for more than one year and the seller previously paid tax on the item. The **seller** must sign and give the exemption certificate to the purchaser. The certificate must be retained by the purchaser for audit purposes (see Reg-1-014, Exempt Sale Certificate).