

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JULY 21, 2020 AGENDA

Subject:	Type:	Submitted By:
INTERLOCAL AGREEMENT – LAW ENFORCEMENT MUTUAL AID	◆ RESOLUTION ORDINANCE RECEIVE/FILE	BOB LAUSTEN POLICE CHIEF

SYNOPSIS

A resolution has been prepared to approve an Interlocal Cooperation Agreement between the City of La Vista and the law enforcement agencies of Bellevue, Omaha, Papillion, Ralston, Valley, Waterloo, Bennington, Sarpy County, and Douglas County to provide mutual aid maintenance and support for law enforcement services.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval

BACKGROUND

On April 15, 1997, an Interlocal Cooperation Agreement was approved between La Vista and the cities of Ralston, Papillion, Bellevue, and Omaha, as well as Douglas County and Sarpy County, for mutual aid. The agreement from 23 years ago has been updated and now includes all the municipalities in Douglas and Sarpy counties.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING AN INTERLOCAL COOPERATION AGREEMENT BETWEEN THE LAW ENFORCEMENT AGENCIES OF CITY OF LA VISTA IN SARPY COUNTY, NEBRASKA (HEREINAFTER "LVPD"); CITY OF BELLEVUE IN SARPY COUNTY, NEBRASKA (HEREINAFTER "BVPD"); CITY OF OMAHA IN DOUGLAS COUNTY, NEBRASKA (HEREINAFTER "OPD"); CITY OF PAPILLION IN SARPY COUNTY, NEBRASKA (HEREINAFTER "PPD"); CITY OF RALSTON IN DOUGLAS COUNTY, NEBRASKA (HEREINAFTER "RPD"); CITY OF VALLEY IN DOUGLAS COUNTY, NEBRASKA (HEREINAFTER "VPD"); CITY OF WATERLOO IN DOUGLAS COUNTY, NEBRASKA (HEREINAFTER "WPD"); CITY OF BENNINGTON IN DOUGLAS COUNTY, NEBRASKA (HEREINAFTER "BPD"); SARPY COUNTY, NEBRASKA (HEREINAFTER "SCSO"), AND DOUGLAS COUNTY, NEBRASKA (HEREINAFTER "DCSO"), HEREIN COLLECTIVELY REFERRED TO AS "COOPERATING AGENCIES" TO PROVIDE MUTUAL AID MAINTENANCE AND SUPPORT FOR LAW ENFORCEMENT SERVICES.

WHEREAS, La Vista and the Cooperating Agencies wish to implement to the extent hereafter provided, the provisions of Neb. Rev. Stat. Sec. 29-215 (hereinafter "Sec. 29-215"), so as to empower law enforcement officers (hereinafter "Officers") of each of the Cooperating Agencies to exercise extraterritorial law enforcement authority, including arrest and enforcement under the laws of this state and legal ordinances of each Cooperating Agency, within the jurisdiction of each of the other Cooperating Agencies; and

WHEREAS, the Cooperating Agencies wish to provide for personnel backup and such other assistance as any of the Agencies may require in time of emergency or other time of need; and

WHEREAS, the Cooperating Agencies have common goals, staffing needs, training needs and other needs in common in the area of law enforcement, and the joint cooperation contemplated by this Agreement will allow the Agencies each to provide improved law enforcement services at less cost; and

WHEREAS, each of the Cooperating Agencies, as among themselves, wish to improve law enforcement services and implement, to the extent herein provided, the authority given by Sec. 29-215 to law enforcement officers of each of the Agencies hereto to enforce the laws of this state and legal ordinances of Cooperating Agencies; and,

WHEREAS, the Cooperating Agencies wish to formalize their understanding pursuant to the Interlocal Cooperation Act of the State of Nebraska, Neb. Rev. Stat. Sec. 13-801 *et seq.*, as amended (herein "Interlocal Cooperation Act").

NOW, THEREFORE, BE IT RESOLVED, that the City Council of La Vista, Nebraska, hereby authorize the Mayor to execute an Interlocal Cooperation Agreement with between the law enforcement agencies of City of La Vista in Sarpy County, Nebraska (hereinafter "LVPD"); City of Bellevue in Sarpy County, Nebraska (hereinafter "BVPD"); City of Omaha in Douglas County, Nebraska (hereinafter "OPD"); City of Papillion in Sarpy County, Nebraska (hereinafter "PPD"); City of Ralston in Douglas County, Nebraska (hereinafter "RPD"); City of Valley in Douglas County, Nebraska (hereinafter "VPD"); City of Waterloo in Douglas County, Nebraska (hereinafter "WPD"); City of Bennington in Douglas County, Nebraska (hereinafter "BPD"); Sarpy County, Nebraska (hereinafter "SCSO"), and Douglas County, Nebraska (hereinafter "DCSO"), herein collectively referred to as "Cooperating Agencies" to provide mutual aid maintenance and support for law enforcement services.

PASSED AND APPROVED THIS 21ST DAY OF JULY 2020.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

DOUGLAS SARPY MUTUAL AID
INTERLOCAL COOPERATION AGREEMENT

THIS AGREEMENT (hereinafter "Agreement" or "Douglas Sarpy Mutual Aid Interlocal") is entered into by and between the law enforcement Agencies of City of Bellevue in Sarpy County, Nebraska (hereinafter "BVPD"); City of La Vista in Sarpy County, Nebraska (hereinafter "LVPD"); City of Omaha in Douglas County, Nebraska (hereinafter "OPD"); City of Papillion in Sarpy County, Nebraska (hereinafter "PPD"); City of Ralston in Douglas County, Nebraska (hereinafter "RPD"); City of Valley in Douglas County, Nebraska (hereinafter "VPD"); City of Waterloo in Douglas County, Nebraska (hereinafter "WPD"); City of Bennington in Douglas County, Nebraska (hereinafter "BPD"); Sarpy County, Nebraska (hereinafter "SCSO"), and Douglas County, Nebraska (hereinafter "DCSO"), herein collectively referred to as "Cooperating Agencies" or "Agencies."

WHEREAS, the Cooperating Agencies wish to implement to the extent hereafter provided, the provisions of Neb. Rev. Stat. Sec. 29-215 (hereinafter "Sec. 29-215"), so as to empower law enforcement officers (hereinafter "Officers") of each of the Cooperating Agencies to exercise extraterritorial law enforcement authority, including arrest and enforcement under the laws of this state and legal ordinances of each Cooperating Agency, within the jurisdiction of each of the other Cooperating Agencies; and,

WHEREAS, the Cooperating Agencies wish to provide for personnel backup and such other assistance as any of the Agencies may require in time of emergency or other time of need; and,

WHEREAS, the Cooperating Agencies have common goals, staffing needs, training needs and other needs in common in the area of law enforcement, and the joint cooperation contemplated by this Agreement will allow the Agencies each to provide improved law enforcement services at less cost; and,

WHEREAS, each of the Cooperating Agencies, as among themselves, wish to improve law enforcement services and implement, to the extent herein provided, the authority given by Sec. 29-215 to law enforcement officers of each of the Agencies hereto to enforce the laws of this state and legal ordinances of Cooperating Agencies; and,

WHEREAS, the Cooperating Agencies wish to formalize their understanding pursuant to the Interlocal Cooperation Act of the State of Nebraska, Neb. Rev. Stat. Sec. 13-801 *et seq.*, as amended (herein "Interlocal Cooperation Act").

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Definitions: As used herein the following terms shall have the following meanings:

- A. "Agency of Primary Jurisdiction" shall mean the Agency responsible for territorial limits of the geographic area within which an arrest is being made, warrant served or other law enforcement activity is occurring.
- B. "Cooperating Agencies" or "Agencies" shall mean the Agencies signatory hereto, and "Agency" shall mean any one of the Agencies.
- C. "Host Agency" shall mean an Agency of Primary Jurisdiction other than an Officer's own Agency of regular employment.

- D. "Officer" shall mean a duly sworn full-time or part-time paid law enforcement officer in the employ of a Cooperating Agency.
- E. "Officer's Primary Jurisdiction" shall mean the geographic area within the territorial limits (corporate limits) of the Agency which regularly employs the Officer.

2. Authority. The authority for the Cooperating Agencies entering into this Agreement is that authority granted by law, including the general powers of the Agencies, the Nebraska Interlocal Cooperation Act, and the authority granted under Sec. 29-215.

3. Purpose. The purpose of this Agreement is to authorize the Officers of each Cooperating Agency to provide law enforcement services outside the limits of their respective primary jurisdictions as authorized by Subsection (2)(d) of Sec. 29-215, and to improve law enforcement in each of the Cooperating Agencies and throughout the ten agency areas through fuller authority and utilization of Officers, through joint training of Officers, sharing of equipment, mutual assistance and the ability to staff Officers based upon the availability of assistance in time of need and to generally enhance law enforcement capacities of the Agencies at a reduced cost to the Agencies.

4. Certain Authority to Act Beyond Primary Jurisdiction Independently Vested by Sec. 29-215. The Agencies recognize that by the provisions of Sec. 29-215, their Officers are given power and authority to act beyond the Officer's Primary Jurisdiction, independent and apart from this agreement in the following situations:

- A. If in a fresh attempt to apprehend a person suspected of committing a felony, Officers may follow such person into any jurisdiction in this state and there arrest and detain such person and return such person to the Officer's Primary Jurisdiction. (Sec. (2)(a) Sec. 29-215).
- B. If in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, Officers may follow such person anywhere in an area within twenty-five miles of the boundaries of the Officer's Primary Jurisdiction and there arrest and detain such person and return such person to the apprehending Officer's Primary Jurisdiction. (Sec. (2)(b), Sec. 29-215).
- C. The Officers shall have such enforcement and arrest and detention authority when responding to a call in which a local, state or federal law enforcement officer is in need of assistance, need of assistance being defined to mean:
 - 1). a law enforcement officer whose life is in danger; or
 - 2). a law enforcement officer who needs assistance in making an arrest and the suspect (a) will not be apprehended unless immediately arrested, (b) may cause injury to himself or herself or others or damage to property unless immediately arrested, or (c) may destroy or conceal evidence of the commission of a crime. (Sec. (2)(c) Sec. 29-215).

D. When probable cause exists to believe that a person is operating or in actual physical control of any motor vehicle, motorboat, personal watercraft, or aircraft while under the influence of alcoholic liquor or of any drug or otherwise in violation of section 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01. or 60-6,211.02, the law enforcement officer has the power and authority to do any of the following or a combination thereof:

- 1) Transport such a person to a facility outside of the law enforcement officer's primary jurisdiction for appropriate chemical testing of the person;
- 2) Administer outside of the law enforcement officer's primary jurisdiction any post-arrest test advisement to the person; or
- 3) With respect to such person, perform any other procedures or functions outside of the law enforcement officer's primary jurisdiction which are directly and solely related to enforcing the laws that concern a person operating or being in the actual physical control of any motor vehicle, motorboat, personal watercraft, or aircraft while under the influence of alcoholic liquor or of any other drug or otherwise in violation of section 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02. (Sec. (3)(a-c) Sec. 29-215).

This Agreement is not intended nor shall it be construed to in any way limit the power and authority granted by the foregoing provisions of Sec. 29-215. Each of the Cooperating Agencies may individually impose in respect to its own Officers such conditions or limitations on the exercise of the foregoing powers by their own Officers as each such Agency may choose not inconsistent with the terms hereof.

5. Following Suspects Across Jurisdictional Lines. The authority to follow suspects across jurisdictional lines is based upon direct legislative grant of power as contained in Subsections (2)(a) and (2)(b) of Sec. 29-215 and is not derived from nor does it flow from consent of the Cooperating Agencies to the exercise of such authority or the provisions of this Agreement.

In respect to following suspects across jurisdictional lines and related action taken by Officers while within the jurisdiction of a Host Agency, the Host Agency shall not be liable for death, bodily injury, property damage or personal injury including false arrest, caused by or resulting from such following or related action, by such non-host Agency Officers and the Agency which employs the Officer(s) doing the following agrees, subject to the liability limits of the Political Subdivision Tort Claims Act, to indemnify and save harmless the Host Agency from loss or liability caused by:

- A. the negligence of such non-host Agency Officers doing the following; or
- B. imposition of liability under Neb. Rev. Stat. Section 13-911, as changed or amended from time to time, resulting from actions by such non- host Agency Officers doing the following or pursuing of a suspect in a Host Agency.

6. Additional Authority Granted Pursuant to Interlocal Cooperation Act. Subject to the limitations hereinafter set forth in this Agreement, the Officers of each of the Agencies while in a Host Agency shall have full law enforcement authority, including the authority to arrest and detain, in the following circumstances:

- A. The commission of a felony witnessed by the Officer.
- B. The Officer is a witness to a criminal act or threatened criminal act, or a traffic infraction, whether or not constituting felonious conduct, where non-arrest poses immediate danger or threat to life or safety to the Officer or any other person or persons.
- C. While engaged in or providing services under a mutual assistance request from a Host Agency.
- D. While serving regular shift duty or other period of duty within a Host Agency that has requested Officer coverage or backup for such period of time.
- E. While participating in investigative activity or other cooperative law enforcement activity authorized by this Agreement.

7. Host Agency Prior Consent to Exercise Arrest Authority. Officers not in the Officer's Primary Jurisdiction and while in a Host Agency may make arrests in the following situations without the prior consent of the Host Agency:

- A. In the case of commission of a felony witnessed by the Officer; and
- B. In the case of any criminal act, or threatened criminal act, or a traffic infraction, whether or not constituting felonious conduct, where non-arrest poses immediate danger or threat to life or safety to the Officer or any other person or persons.
- C. when authorized by any provision of Sec. 29-215.

Should such an arrest without prior consent occur, the arrest shall be reported to a supervisor or senior shift officer of the Host Agency in the Jurisdiction for which the arrest occurred as soon as is reasonably possible.

Except for arrests falling within the scope of Paragraph 7(a) and 7(b) above, an Officer, prior

to making an arrest in a Host Agency, when not accompanied by an Officer of the Host Agency, shall request the consent of the Host Agency prior to making the arrest. A supervisor or senior shift officer of the Host Agency on duty at the time shall advise as to whether the Host Agency consents to or is withholding consent to the intended arrest, by the Officer at the scene. When feasible, the Host Agency shall dispatch one of its own Officers to the scene to make the arrest. If the Officer at the scene is advised that an Officer from the Host Agency, or other law enforcement officer dispatched at the direction of the Host Agency, has been dispatched to the scene, the Officer at the scene shall, if time and circumstances permit, delay arrest until such Host Agency Officer, or highway patrol officer arrives to make the arrest or to assist therein.

8. **Mutual Assistance.** Each of the Cooperating Agencies agrees to render law enforcement assistance to each of the other Cooperating Agencies when such assistance is of an emergency nature or one of a non-emergency nature requiring backup or additional Officer force beyond that then available to the requesting Agency in accordance with the following provisions:

- A. **Requests for Assistance.**

- 1) **Emergency Situations.** Requests by an Agency for assistance in emergency situations may be made by any of the following:
 - a. the Mayor or Acting Mayor;
 - b. Agency Administrator or Acting Agency Administrator;
 - c. Agency head or Acting Agency head; or
 - d. Supervisor or Senior Shift Officer of the Agency requesting assistance.
 - e. In situations posing any immediate threat to the life or safety of an Officer or other person, any Officer may himself or herself make such request.

- 2) **Non-Emergency Situations.** Requests for assistance in non-emergency situations may be made only by the requesting Agency's Mayor, Agency Administrator, Agency head or other person within the law enforcement department of command rank and who is expressly authorized by the requesting Agency to request aid in non-emergency situations.

- B. **No Liability for Failure to Respond.** It is understood and agreed by all of the Cooperating Agencies that assistance is not assured or guaranteed to any Agency. Nor is there any understanding that all, or any, requests for assistance will be met. It is expressly agreed by and between all Agencies that any Agency to which a request is made, or which shall otherwise have knowledge of need of assistance in another Agency, shall have no liability whatsoever to the requesting Agency or any other Agency signatory hereto or to the Officers or

employees of any Agency or to any third person whomsoever for failure for whatever reason to respond to, or delay in responding to, a call for assistance or for failure to communicate such call or any failure or delay. Each Agency covenants not to sue and agrees to save harmless each of the other Agencies for any claim or action based, in any manner, on a failure to respond in or to a request for assistance under this Agreement.

- C. Radio Communication. Cooperating agencies will, through separate interlocal agreement, ensure that a system is maintained that facilitates radio communication between all cooperating agencies.
- D. Command at Scene. The Agency requesting assistance shall provide command at the scene for which assistance is requested.
- E. Procedures. The Cooperating Agencies may develop and effectuate mutually agreed upon written procedures consistent with the mutual assistance provisions hereof.

9. Training. Each Cooperating Agency is responsible for the training of its personnel. The Cooperating Agencies may participate in joint training as agreed upon by the Cooperating Agencies.

10. Search Warrants. Unless otherwise agreed to by a Host Agency, search warrants to be served or acted upon in Host Agency jurisdiction shall have named thereon and shall be served by an Officer of the Host Agency. An Officer of the requesting Agency may, but need not be, named on the warrant or other issuance in addition to an Officer of the Host Agency. Each Agency shall treat requests for service of warrants from other Agencies in the most expeditious manner reasonably possible under the circumstances.

11. Equipment. Cooperating Agencies shall be solely responsible for the maintenance of all equipment provided and utilized by its law enforcement officers, and shall not be required to provide any equipment, maintenance, or repair to any equipment used by those law enforcement officers providing assistance pursuant to this Agreement and who are employed by the other Cooperating Agencies.

Any supplies, equipment, vehicles or other personal property or other real property, which is utilized in the performance of the duties and obligations created under this Agreement, shall remain at all times the property and the sole responsibility of each such jurisdiction and shall not be the obligation or responsibility of the other Cooperating Agencies.

12. Investigation. Each Cooperating Agency shall assist other Agencies requesting assistance in the investigation of persons within the limits of primary jurisdiction of the cooperating Agency who are suspected by such other Agency of committing or believed to have information concerning crimes or criminal activity occurring in such other Agency. When reasonably possible, a Host Agency shall provide an Officer to personally accompany the

Officer or Officers of another Agency during their investigation within the Host Agency.

13. Financing. Each Cooperating Agency shall be responsible for all compensation and remuneration of its own employees and shall pay all required payroll, wages, taxes, and benefits as provided by law. Each Cooperating Agency shall also be responsible for the costs of equipment provided and utilized by its law enforcement officers in accordance with Paragraph 11 of this agreement.
14. Officers Remain Employees of Own Agency. An Officer, while serving outside the Officer's Primary Jurisdiction shall at all times be considered and held as serving in the regular line of duty of the Agency which employs the Officer as fully as if the Officer were serving within the limits of the Officer's Primary Jurisdiction.
15. Disciplinary Procedures. Disciplinary action arising out of an Officer's conduct, actions, or omissions, whether occurring within or outside the Officer's Primary Jurisdiction, shall be handled by the Agency which employs the Officer, that is, the Officer's Primary Jurisdiction.
16. Rules and Regulations. The Agencies recognize that the duties, work, skills and working conditions may differ between Agencies. While serving outside their own Agency, Officers serving pursuant to this Agreement shall conduct themselves in accordance with the policies and procedures of the Officer's Primary Jurisdiction, except as may otherwise be agreed to by such Officer's Agency of Primary Jurisdiction and the Host Agency in which the service is performed.
17. Liability Insurance. Each of the Cooperating Agencies agrees to be self-insured or to carry liability insurance written on an "occurrence" basis (as distinguished from "claims made" basis) covering all law enforcement personnel assigned by each Agency under this Agreement and insuring against liability for bodily injury, personal injury (including false arrest) and property damage, in an amount not less than the maximum liability of Agencies of the appropriate class for acts of its law enforcement personnel as from time to time established by the Legislature, said limit at date hereof being \$1,000,000 per person and \$5,000,000 per occurrence, as prescribed by Neb. Rev. Stat. Section 13-1802. Each Agency's insurance or self-insurance shall cover acts and omissions of its Officers while performing services under this Agreement. These Insurance provisions are not intended to waive an Agency's sovereign immunity. Each Agency's liability is governed by and limited to the extent provided by the Nebraska Political Subdivision Tort Claims Act, or other applicable provisions of law.
18. Public Information. To the extent that specific case information relating to a mutual effort with other law enforcement agencies is made public, each agency shall be responsible for responding to the request to determine which of the reports that it generated may be made available to the public. No participating agency shall release any document generated by another agency without permission unless release is required by a court order.

19. No Agency Relationship Created. This Agreement merely creates the framework for cooperation among the Cooperating Agencies for the purposes hereof, and there is no agency or instrumentality and no agency relationship created hereby between the Agencies or between any Agency's employee and any other Agency. The cooperative activity hereby established does not constitute an independent agency or employer. This is a cooperative undertaking between the Agencies and Officers while performing any services under this Agreement shall at times and for all purposes remain employees exclusively of the law enforcement department of the Agency which encompasses the Officer's Primary Jurisdiction and shall for no purpose be deemed to be an employee of any other Agency.
20. No Separate Entity. This Agreement does not create a separate legal entity under the Interlocal Cooperation Act. For purposes of that Act, this Agreement shall be administered jointly by the Agencies. In cases of disagreement on the administration of this Agreement, the heads of each agency will be responsible for mediating such disagreements. This Agreement does not contemplate acquiring, holding or disposing of joint property nor does it contemplate the levying or collecting of any tax.
21. Term of Agreement. This Agreement shall be effective on the first day of the calendar month next following the completion of implementing action by all ten Agencies as required by Paragraph 22(b) of this Agreement hereof and shall continue in full force and effect for a period of five (5) years thereafter unless terminated earlier by ordinance or resolution of the governing body of any Agency, the effective date of termination shall not be less than thirty (30) days following such terminating Agency's written notice to all other Agencies. The termination of this Agreement by one Agency does not terminate the Agreement between the remaining Agencies, which shall remain in full force and effect. A review of the Agreement may occur upon request of any of the Cooperating Agencies.
22. **Miscellaneous.**
 - A. Other Agreements. The cooperative program hereby established is cumulative to and not in lieu of specific agreements heretofore or hereafter entered into between any of the Cooperating Agencies in respect to other aspects of public safety. In the event of conflict or when resolving any ambiguities, this Douglas Sarpy Mutual Aid Interlocal takes precedence over any other agreement.
 - B. Implementing Action. Prior to the operative date of this Agreement, each Agency shall take formal action by ordinance or resolution of its governing body approving this Interlocal Cooperation Agreement. Each Agency shall furnish the other Agencies executed copies of such authorizing action.
23. Mutual Non-Discrimination Clause. The Agencies agree that in accordance with

the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. §48-1122, and 42 USCS 12101 *et seq.* Agencies and their subcontractors will not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions, or privileges of employment because of the age, race, color, religion, sex, disability, political or religious opinions or affiliations, or national origin of the employee or applicant. Agencies and their subcontractors shall not, in the performance of this Agreement, discriminate or permit discrimination in violation of any applicable federal or state laws or local ordinances.

24. **Multiple Counterparts.** This agreement, involving numerous Agencies, may be executed in multiple counterparts each of which may bear the signatures of less than all of the Agencies hereto, and it shall be in full force and effect even if so executed

25. **General Provisions**

A. **Independent Contractors**

It is agreed that nothing contained herein is intended or should be construed in any manner as creating or establishing a partnership or joint venture between the Agencies. Any and all acts that any Agency or its personnel, employees, agents, or contractors, perform pursuant to the terms of this Agreement shall be undertaken as independent contractors and not as employees of the other. The Agencies shall, except as provided herein, act in their individual capacities and not as agents, employees, partners, joint ventures or associates of the other. An employee or agent of one shall not be deemed or construed to be the employee or agent of the others for any purpose whatsoever. No Agency, nor its personnel, employees, agents, or contractors shall be entitled to any benefits of the others. The Agencies shall not provide any insurance coverage to the others or their employees including, but not limited to, workers' compensation insurance. Each Agency shall pay all wages, salaries and other amounts due its employees and shall be responsible for all reports, obligations, and payments pertaining to social security taxation, income tax withholding, workers' compensation, unemployment compensation, group insurance coverage, collective bargaining agreements or any other such similar matters. Any and all claims that may or might arise under the Workers' Compensation Act of the State of Nebraska on behalf of said personnel or other persons while so engaged, and any and all claims whatsoever on behalf of any such person or personnel arising out of employment or alleged employment, including without limitation claims of discrimination against an Agency its officers, employees, agents, or contractors shall in no way be the responsibility of that Agency. No Agency shall have any authority to bind the others by or with any contract or agreement, nor to impose any liability upon the others. All acts and contracts of each shall be in its own name and not in the name of the others, unless otherwise provided herein.

B. **Release and Indemnity**

Each Agency shall assume all risk of loss, indemnify the others against loss, and hold

the others, its employees, agents, assignees, and legal representatives harmless from all liabilities, demands, claims, suits, losses, causes of action, fines, settlements or judgments and all expenses incident thereto, including but not limited to legal fees, for injuries to persons and for loss of, damage to, or destruction of property, arising out of or in connection with this Agreement and proximately caused by the indemnifying Agency's negligent acts or omissions or those of its officers, employees or agents, and assigns, for any losses caused by failure of the indemnifying Agency to comply with terms and conditions of the Agreement, and for any losses caused by other Agencies which have entered into agreements with the indemnifying Agency, provided that the Indemnified Agency gives the Indemnifying Agency prompt, written notice of any such claim, suit, demand or cause of action. The Indemnified Agency shall cooperate in the defense or settlement negotiation of such claim, suit, demand or cause of action. The provisions of this section shall survive expiration or termination of this Agreement. These Indemnification provisions are not intended to waive an Agency's sovereign immunity. Each Agency's liability is governed by and limited to the extent provided by the Nebraska Political Subdivision Tort Claims Act, or other applicable provisions of law.

C. Drug Free Policy

Each Agency assures the others that it has established and maintains a drug free workplace policy.

D. New Employee Work Eligibility Status

The Agencies shall use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. §1324a, 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.

E. Public Benefits

With regard to Neb. Rev. Stat. §§4-108 - 113, no Agency is an individual or sole proprietorship. Therefore, no Agency is subject to the public benefits attestation and related requirements of Neb. Rev. Stat. §§4-108 – 113.

F. Unavailability of Funding

Due to possible future reductions in Municipal, County, State and/or Federal appropriations, Agencies cannot guarantee the continued availability of funding for this Agreement, notwithstanding the consideration stated in this Agreement. In the event funds to finance this Agreement become unavailable either in full or in part due to such reduction in appropriations, one Agency may terminate the Agreement or reduce the consideration upon notice in writing to the other Agencies. The notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. Each

Agency shall be the final authority as to the availability of their funds. The effective date of such Agreement termination or reduction in consideration shall be specified in the notice as the date of service of the notice or the actual effective date of the County, State and/or Federal funding reduction, whichever is later. Provided, that reduction shall not apply to payments made for services satisfactorily completed prior to the effective date. In the event of a reduction of consideration, any Agency may cancel this Agreement as of the effective date of the proposed reduction upon the provision of advance written notice to any Agency.

G. Conflict of Interest

In the performance of this Agreement, Agencies will avoid all conflicts of interests or appearances of conflict of interest. Agencies will report any conflict of interest immediately to each other. Agencies assure each other that no Agency employee will have a financial or personal interest in this Agreement. Agencies have not and will not provide any money or other benefit of any kind to any other Agency employee in the procuring of, facilitation of, or execution of this Agreement.

H. Amendments

This Agreement may be modified only by written amendment, duly executed by authorized officials of the Agencies. No alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the Agencies hereto. Every amendment shall specify the date on which its provisions shall be effective.

I. Choice of Law

The Agencies to this Agreement shall conform to all existing and applicable city ordinances, resolutions, state and local laws, federal laws, and all existing and applicable rules and regulations. This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska without giving effect to any choice or conflict of law provision that would cause the application of laws of any jurisdiction other than those of the State of Nebraska. In addition, all claims relating to or arising out of this contract, or the breach thereof, whether based in contract, tort or otherwise, shall likewise be governed by the laws of the State of Nebraska without giving effect to any choice or conflict of law provision as previously provided here. Venue for any non-federal legal proceeding under this Agreement shall be in the State of Nebraska, District Court of Douglas County and for any federal legal proceeding in the United States District Court for the State of Nebraska located in Omaha, Nebraska.

J. Assignment and Delegation

This Agreement is exclusive to the Agencies and rights may not be assigned nor duties delegated by any Agency except on prior written consent of the other Agencies. Any attempted assignment or delegation without such approval shall be void and shall constitute a material breach of contract. Any and all additional fees, charges, costs or expenses, which result from an approved assignment or delegation, shall be paid by the assigning/delegating Agency. Shall such approval to assign or delegate be granted, all

covenants, stipulations, and agreements herein shall inure to the benefit of the Agencies and extend to and bind the legal representatives, successors, and assigns of the Agencies.

K. Joint Work Product

This Agreement is the joint work product of the Agencies; accordingly, in the event of any ambiguity, no presumption shall be imposed against or in favor of any Agency by reason of document preparation.

L. Entire Agreement

This Agreement contains the entire agreement of the Agencies. The provisions of this Agreement may not be explained, supplemented, or qualified through evidence of trade usage or prior course of dealings. No representations were made or relied upon by any Agency other than those that are expressly set forth herein. No agent, employee or other representative of any Agency is empowered to alter any of the terms hereof except as provided herein.

M. Incorporation of Recitals

The recitals set forth above are, by this reference, hereby incorporated into and deemed part of this Agreement.

N. No Third Party Rights

This Agreement is executed for the benefit of the named Agencies only. This Agreement is not intended to, nor shall it provide rights to any third party, excluding any assignment as provided herein, with any remedy, claim, liability, reimbursement, cause of action or other right or privilege; except that this Agreement's indemnification provision shall also inure to the benefit of an Agency's employees, officers and agents.

O. Authorized Representatives and Notice

Except for any notice required under applicable law to be given in another manner, any notice or communication required or permitted hereunder shall be given in further consideration of the mutual covenants herein contained. The Agencies hereto expressly agree that for purposes of notice, during the term of this Agreement and for the period of any applicable statute of limitations thereafter, the head of each agency shall be the authorized representative of the Agencies.

Notice shall be in writing and shall be effective upon receipt. Delivery may be by hand, in which case a signed receipt shall be obtained, or by United States mail, registered or certified, return receipt requested, by facsimile with a signed return facsimile acknowledging receipt or via electronic mail with an acknowledging receipt.

P. Headings

The section headings appearing in this Agreement are inserted only as a matter of convenience, and in no way define or limit the scope of any section.

